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**IDAPA 16
TITLE 04
Chapter 14**

**16.04.14 - RULES GOVERNING THE LOW
INCOME HOME ENERGY ASSISTANCE PROGRAM**

000. LEGAL AUTHORITY.

This program is authorized by Section 2602, Title XXVI, Pub. L. No.97-203, also known as the Low-Income Home Energy Assistance Act of 1981, and by provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to assist low-income people of the state with financial assistance and to enter into contracts with the federal government to provide assistance. (11-1-94)

001. TITLE AND SCOPE.

01. Title. These rules are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 04, Chapter 14, "Rules Governing the Low Income Home Energy Assistance Program." (11-1-94)

02. Scope. The intent of the program is to provide assistance to eligible low income households particularly those with the lowest incomes, that pay the highest proportion of their income for home energy, primarily in meeting their immediate home energy needs. (11-1-94)

03. Program Limitation. This federally funded program does not entitle any household to a certain amount and/or form of assistance. (4-5-82)

002. POLICY-USE OF FEDERAL FUNDS.

No funds under this grant can be obligated for Low Income Home Energy Assistance before September or after June in each year of operation, except for After-the-Program Emergencies as set forth in Subsection 101.03.b. (12-31-91)

01. Payments Not to Be Regarded as Income. No payment made under this program is to be considered income for the purpose of determining eligibility or benefits under any income-transfer program, including, but not limited to: (9-24-81)

- a. Public assistance; or (9-24-81)
- b. Veterans' benefits; or (9-24-81)
- c. Food Stamps; or (9-24-81)
- d. Supplemental Security Income. (9-24-81)

02. Unduplicated Payments. An eligible household will receive only one (1) benefit payment from the regular program assistance and may be eligible to receive one (1) benefit for payment crisis intervention assistance. A designated head of household will be the payee. (11-1-93)

003. DEFINITIONS.

For the purposes of the rules contained in this chapter, the following terms are used, as defined herein: (12-31-91)

01. Applicant. A household which has made application for Low Income Home Energy Assistance from the state of Idaho and said application has not been completed. (3-1-85)

02. Application. The action by which a household indicates in writing to DHW a desire to receive Low Income Home Energy Assistance. A head of household will be designated on the application; he will be the recipient of benefits for the household. (3-1-85)

03. Community Action Agency. A private non-profit organization serving the low income population in specified counties of the state with which DHW has entered into a contract for the provision of services for purposes of LIHEAP. (12-31-91)

04. Community Action Program. An office or offices of the Community Action Agency. (9-24-81)
05. Crisis Intervention. Energy Assistance to reduce/eliminate an energy related health threatening situation to the household. (11-1-93)
06. Department. The Department of Health and Welfare. (9-24-81)
07. Director. The Director of the Department of Health and Welfare, or his designee. (12-31-91)
08. Eligible Household. A household which meets the standard of eligibility set forth in these rules. (9-24-81)
09. Eligible Subsidized Housing. All subsidized housing not defined as ineligible pursuant to Subsection 003.13. (12-31-91)
10. Energy Burden. The expenditures of the household for home energy divided by the income of the household. (11-1-94)
11. Energy Supplier. A vendor supplying home heating energy who is not a member of an eligible household. (9-24-81)
12. Fraud. Recipient fraud is indicated where there appears to be a deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (3-6-88)
13. Fuel. A latent form of energy used to produce residential heat, including: (9-24-81)
- a. Utility fuels, including: (9-24-81)
 - i. Electricity; (9-24-81)
 - ii. Natural gas; and (9-24-81)
 - b. Non-utility fuels, including: (9-24-81)
 - i. Wood or wood products used for home heating; (9-24-81)
 - ii. Coal; (9-24-81)
 - iii. Propane; (9-24-81)
 - iv. Liquid petroleum gas; and (9-24-81)
 - v. Fuel oil, including diesel oil. (9-24-81)
14. Head of Household. The person designated by the household members to receive energy assistance benefit in behalf of the household and in whose favor the energy assistance warrant is written. (3-1-90)
15. Highest Home Energy Needs. The home energy requirements of household determined by taking into account both their energy burden and unique situation that results from having members of vulnerable population, including very young children, individuals with disabilities and frail older individuals. (11-1-94)
16. Household. A household is one of the following: (9-24-81)
- a. An individual living alone; or (9-24-81)
 - b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent. (11-1-93)

17. Income. Income is the gross amount of moneys actually received in the household from all sources, excluding: (4-5-82)
- a. Cash over which the household has no control, including: (9-24-81)
 - i. Reimbursement for expenses incurred in connection with employment; (9-24-81)
 - ii. Reimbursement to the household or to a medical provider for medical expenses incurred by household members; and (9-24-81)
 - iii. Payments to a third party made by a non-household member on behalf of the household. (9-24-81)
 - b. Loans received by the household; (9-24-81)
 - c. Infrequent, irregular, or unpredictable income not to exceed thirty dollars (\$30) per month; (9-24-81)
 - d. Payments or benefits excluded by federal law, including: (9-24-81)
 - i. Value of food coupons under the Food Stamp Act of 1977, Section 1301 of Pub. L. No. 95-113 (91 Stat. 968, 7 U.S.C. 2017(b)). (9-24-81)
 - ii. Value of federally donated foods distributed under Section 32 of Pub. L. No. 74-320 (49 Stat. 744) or Section 416 of the Agriculture Act of 1979 (63 Stat. 1058, 7 CFR 250.6(e)(9)). (9-24-81)
 - iii. Value of free or reduced price food for women and children under the: (9-24-81)
 - (1) Child Nutrition Act of 1966, Section 11(b) of Pub. L. No. 89-642 (80 Stat. 889, 42 U.S.C. 1780(b)) and Section 17 of that Act as added by Pub. L. No. 92-433 (86 Stat. 729, 42 U.S.C. 1786); and (9-24-81)
 - (2) National School Lunch Act, Section 13(h)(3), as amended by Section 3 of Pub. L. No. 90-302 (82 Stat. 119, 42 U.S.C. 1761(h)(3)). (9-24-81)
 - iv. Assistance to prevent fuel cut-offs and to promote energy efficiency under any program of the Economic Opportunity Act of 1964, as amended by Section 5(d)(1) of Pub. L. No. 93-644 and Section 5(a)(2) of Pub. L. 95-568 (88 Stat. 294 as amended, 42 U.S.C. 2809(a)(5)). (4-5-82)
 - v. Payment for relocation, made to persons displaced by federal or federally assisted programs which acquire real property, under Section 216 of Pub. L. No. 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902, 42 U.S.C. 4636). (9-24-81)
 - vi. Tuition and mandatory fees for any financial assistance for education including, but not limited to grants, loans, scholarships, fellowships, and veterans' educational benefits, to an institute of higher education, or to a school for the physically or mentally handicapped. Educational monies funded under Title IV which includes, but is not limited to, National Direct Student Loan (NSDL), College Work-Study Program, State Student Incentive Grant Program (SSIGP), Supplemental Educational Opportunity Grants (SEOG), PELL Grant, Guaranteed Student Loan (GSL), and Supplemental Grant funded under Title IV, A-2, are excluded from income for determining eligibility. (3-6-88)
 - vii. Any wages, allowances, or reimbursement for attendant care, when received by an eligible handicapped individual. (3-1-85)
 - viii. Payments received by American Indians under: (3-3-87)
 - (1) The Alaska Native Claims Settlement Act, P.L. 92-203; and (3-3-87)

- (2) Submarginal land held in trust for certain Indian tribes, Section 6, P.L. 94-114; and (3-3-87)
- (3) Funds to the Grand River Band of Ottawa Indians, P.L. 94-540; and (3-3-87)
- (4) The Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation, P.L. 95-433; and (3-3-87)
- (5) The Passamaquoddy Tribe and the Penobscot Nation pursuant to the Maine Indian Claims Settlement Act of 1980, P.L. 96-420; and (3-3-87)
- (6) The Sac and Fox Indian claims agreement, P.L. 94-189; and (3-2-87)
- (7) Up to two thousand dollars (\$2,000) of any Indian per capita payment from funds held in trust by the Secretary of the Interior including P.L. 98-64 and P.L. 97-365. (3-3-87)
- ix Compensation provided volunteers in the foster grandparents program and other similar programs under Sections 404(g) and 418 of the Domestic Volunteer Service Act of 1973 (87 Stat. 409, 413, 42 U.S.C. 5044(g) and 5058). (9-24-81)
- x. Any assistance to an individual (other than wages or salaries) under the Older Americans Act of 1965, as amended by Section 102(h)(1) of Pub. L. No. 95-478 (92 Stat. 1515, 42 U.S.C. 3020a). (9-24-81)
- 18. Ineligible Subsidized Housing. Public housing in which tenants' rental payments include all utility costs. (12-8-82)
- 19. Overpayment. An incorrect energy assistance payment made under one (1) of the following circumstances: (9-24-81)
 - a. To an ineligible household; or (9-24-81)
 - b. To an eligible household in excess of such household's need according to the DHW payment standard for that household; or (9-24-81)
 - c. To an ineligible energy supplier; or (3-1-90)
 - d. To an eligible energy supplier in excess of the amount to which such energy supplier is entitled. (3-1-90)
- 20. Personal Emergency/Expedited Delivery. A situation in which household members lack the resources or the ability to secure resources to obtain home heating energy, and where fuel is not available. (4-5-82)
- 21. Primary Fuel. The type of fuel declared by the household to be the major source of home heating fuel. Households will receive assistance for only one (1) kind of heating fuel which is actually used. (4-5-82)
- 22. Proof of Income. Documentary evidence used to establish the amount of a household's income pursuant to Subsection 151.05. (12-31-91)
- 23. Vendor. An energy supplier or utility supplying home energy. (11-1-93)
- 24. Wood User. An individual who cuts or buys wood for use in his own household as the primary source of heat. Such households will receive a one (1) party warrant. (3-12-86)
- 25. Utility. A vendor of energy regulated by the Idaho Public Utilities Commission. (9-24-81)

004. ABBREVIATIONS.

For the purposes of the rules contained in this chapter, the following abbreviations are used: (12-31-91)

01. AABD. Aid to the Aged, Blind, and Disabled. (9-24-81)
02. ADC. Aid to Dependent Children. (9-24-81)
03. CAA. The Community Action Agency. (9-24-81)
04. CAP. The Community Action Program. (9-24-81)
05. DHW. The Department of Health and Welfare. (9-24-81)
06. FS. The Food Stamp program. (9-24-81)
07. I.G.CO. The Intermountain Gas Company. (9-24-81)
08. IPC. The Idaho Power Company. (9-24-81)
09. LIHEAP. The Low Income Home Energy Assistance Program. (3-1-85)
10. OMB. The Federal Office of Management and Budget. (4-5-82)
11. SSI. The Supplemental Security Income program. (9-24-81)
12. UPL. The Utah Power and Light Company. (9-24-81)
13. WWP. The Washington Water Power Company. (9-24-81)

005. FORMS - BY NUMBER AND NAME.

For the purposes of implementing LIHEAP, the following forms will be used: (3-1-85)

01. HW0406. The form entitled "Appeal." (9-24-81)
02. HW0478. The form entitled "Client Assessment Application". (12-1-95)T
03. HW0478A. The form entitled "Client Assessment Application". (11-1-93)
04. HW0480. The form entitled "Notice of Returned Energy Assistance Warrant." (3-5-91)
05. HW0481. The form entitled "Instructions for LIHEAP Application." (3-1-85)
06. HW0482. The form entitled "Referral for LIHEAP Application." (3-1-85)
07. HW452-201. The form entitled "Batch Cover Sheet. (3-12-86)
08. HW0485. The form entitled "Batch Control Log." (3-12-86)
09. HW0486. The form entitled "LIHEAP Notice of Denial." (3-1-85)
10. HW0487. The form entitled "LIHEAP Notice of Award." (3-1-85)
11. HW0487A. The form entitled "LIHEAP Notice of Award." (3-5-91)
12. HW0476. The form entitled "Self-Employment Verification for LIHEAP Applicants." (3-17-92)
13. HW0679. The form entitled "Privacy Act Information and Resident Status Certification". (11-1-93)

006. -- 099. (RESERVED).

100. CASE RECORD.

The case record is the documentary basis justifying the expenditure of LIHEAP funds. All material pertinent to a household will be retained for a permanent record. Each decision that an applicant household is eligible for or ineligible for LIHEAP benefits must be supported by information in the permanent record showing that each eligibility requirement is met or that one (1) or more eligibility requirements are not met. (3-1-85)

101. ELIGIBLE ACTIVITIES.

Funds made available through this grant for Low Income Home Energy Assistance will be used for: (9-24-81)

01. Utility Costs. These costs include electricity and natural gas but do not include telephone, water and/or sewer costs. (4-5-82)

02. Fuel Costs. These costs include those incurred for purchase of fuels used for home heating purposes. (9-24-81)

03. Emergency Reserve. Funds reserved for weather related and supply shortage emergencies will be used as follows: (9-24-81)

a. Weather-Related or Supply Emergency. When an energy supply shortage or a weather-related emergency occurs which threatens the health or lives of an area's inhabitants such that the Governor of the state of Idaho declares a state of emergency, emergency reserve funds may be expended for the items listed below, contingent upon availability of sufficient funds. (9-24-81)

i. Alternative fuel supplies; and (9-24-81)

ii. Clothing; and (9-24-81)

iii. Blankets; and (9-24-81)

iv. Temporary shelter; and (9-24-81)

v. Minor repair to homes and/or heating equipment not including replacement of capital outlay proportion; and (9-24-81)

b. Crisis Intervention Emergency. Additional assistance is available after March 15th of each year when regular program benefit is insufficient or assistance in the form of cash assistance is needed to avoid a health threatening energy related emergency situation to the household that may or may not have applied during the regular program period. Contingent upon the availability of sufficient emergency funds, the additional benefit assistance amount will not exceed three hundred and fifty dollars (\$350). The additional assistance will be provided as follows: (12-1-95)T

i. Cash assistance to maintain or reestablish heat for the household; and/or (3-2-93)

ii. Minor repair to home and/or heating equipment including repair or replacement of doors, windows, hot water unit or furnace/stove heater. (3-2-93)

c. Households Eligible for Crisis Intervention Emergency. Such households include but are not limited to: (3-2-93)

i. Migrant households who move to Idaho after the end of the regular program; and (3-12-86)

ii. Individuals who move from an ineligible living situation to an eligible living situation after the end of the regular program. (3-12-86)

iii. Households that experience a catastrophic illness and whose household income exceeds the eligibility guidelines may be eligible when the household's previous twelve (12) month's unreimbursed medical expenses are deducted from the same twelve (12) month's gross income. If, after deducting the unreimbursed medical

expenses from the gross income the established income guidelines are met, the household may be eligible for assistance. The Department will make final determination for eligibility. (11-1-93)

vi. Household who, to the extent permitted by law, allow weatherization services be installed to their home residence. (12-1-95)T

04. Households Residing in Subsidized Housing. Eligible households residing in eligible subsidized housing are entitled to LIHEAP benefits. Households residing in ineligible subsidized housing are not entitled to LIHEAP benefits. (3-1-85)

05. Low-cost Residential Weatherization. Funds reserved for weatherization services to low-income households pursuant to Department of Energy, Weatherization Assistance Program Regulations when in accordance with federal LIHEAP Regulations. (11-1-94)

102. APPLICANT RIGHTS.

Households applying for LIHEAP benefits have certain rights. These rights, include, but are not limited to, the following: (3-1-85)

01. Right to Apply. Any household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All applications must be in writing on forms prescribed by DHW. (3-1-85)

02. Right to a Hearing. Rules governing hearing rights are contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 300, et seq., and Section 503, "Rules Governing Contested Cases and Declaratory Rulings." (12-31-91)

03. Right to Confidentiality. The rights of an applicant household to confidentiality are contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing Protection and Disclosure of Department Records." (9-24-81)

04. Civil Rights. The rights of applicant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a person's privacy or subject him to harassment. (9-24-81)

103. APPLICANT RESPONSIBILITIES.

Each person applying for LIHEAP benefits must, to the extent permitted by his physical and mental condition, provide any necessary and reasonable verification to establish his eligibility, and must otherwise cooperate in the eligibility determination process. (3-1-85)

104. RELATIONSHIP TO OTHER PROGRAMS.

Benefits paid to eligible households under LIHEAP must not be counted as income or resources for any purpose under any federal or state law, including any law relating to taxation, public assistance, or welfare programs. (3-1-85)

105. -- 149. (RESERVED).

150. ELIGIBILITY REQUIREMENTS.

All households assisted through LIHEAP except for assistance provided pursuant to Subsection 101.03.a., must meet both income eligibility requirements and non-financial eligibility requirements. (12-31-91)

151. INCOME ELIGIBILITY REQUIREMENTS.

The LIHEAP income eligibility requirements are as follows: (3-1-85)

01. Income Eligibility. Assistance under this program is limited to households income which for the three (3) month period prior to application is less than one hundred thirty percent (130%) of the current OMB Poverty Guidelines in effect at the start of the program year. (11-1-94)

02. Available Income. Gross monthly income from all sources, for the three (3) month period prior to

the date of the application which is not excluded, must be considered available for determining eligibility. When actual receipts for three (3) month income are not available the following procedures will be used: (11-1-93)

a. For household income which is received less frequently than three (3) month increments, the income must be converted to a three (3) month amount by: (11-1-93)

i. Multiplying income received weekly by twelve point nine (12.9); and (11-1-93)

ii. Multiplying income received every two (2) weeks by six point forty five (6.45); and (11-1-93)

iii. Multiplying income received twice each month by six (6). (11-1-93)

b. For household income which is received less frequently than monthly, or which is received in a particular work season or seasons of a calendar year, the annual amount must be divided by four (4) to arrive at a three (3) month amount. (11-1-93)

03. When Income Considered. For purposes of determining LIHEAP eligibility and benefit amount, household income must be considered as follows: (3-1-85)

a. For household income which is received monthly or more frequently, income received in the ninety (90) days or three (3) months prior to the date of application is to be used. (11-1-93)

b. For household income which is received less frequently than monthly, including seasonal and self-employment income, the annual amount of income will be converted to a three (3) month amount pursuant to Subsection 151.02.b. is to be used. (11-1-94)

04. Treatment of Alien Resident Income. If a household includes both eligible and persons ineligible by virtue of their resident alien status, and one (1) or more of the ineligible persons had income during the period being reported, the ineligible persons' income will be included in the household's gross income to determine the household's eligibility. The ineligible person(s) will be excluded from the total number of eligible household members. (12-1-95)T

05. Income Verification. For purposes of LIHEAP applicants applying through a Community Action Agency, income which is not otherwise excluded must be verified and the household must provide proof of income, upon request. Proof of income includes, but is not limited to, the following: (3-9-89)

a. Award letters from public or private agencies or institutions; (9-24-81)

b. Actual wage stubs from employment; (9-24-81)

c. Written statements provided by a wage earner's supervisor, employer, or his designee; (9-24-81)

d. Monetary determinations issued by the Department of Employment to show the dates and amounts of unemployment benefits; (9-24-81)

e. Households engaged in self-employment may use the current completed IRS tax forms for verifying employment income. Business, farm, and real estate deductions (excluding depreciation, depletion and losses from the sale of real estate, stocks and securities) will be subtracted prior to dividing the amount by four (4) to arrive at the three (3) month self-employment income. Households newly engaged in self-employment (less than one (1) year) or when IRS tax forms are not available, may use the profit and loss statement or cash receipt ledger reflecting the net receipts for the prior three (3) months of employment. Additional income (other than self-employed) to the household will need separate verification for the three (3) months prior to application. (12-1-95)T

f. Other documentary evidence which can be relied upon to accurately reflect income. (9-24-81)

06. Households Claiming No Income. (11-1-94)

a. A household claiming no income must document on Form HW0478 or HW0478A, Client Assessment Application how their basic needs i.e. shelter, food, and utilities are being met. (12-1-95)T

b. Households claiming no income for prior two (2) program fiscal years, must provide additional written information from someone, other than a household member, who has knowledge of how household basic needs have been met during the time period of current program. (11-1-94)

07. Income Statement. Households initiating application through a CAA office must complete an HW0478 or HW0478A, Client Assessment Application (12-1-95)T

152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

The LIHEAP nonfinancial eligibility requirements are as follows: (3-1-85)

01. Residence. The household must reside in the state of Idaho at the time it makes application for LIHEAP benefits. There must be no durational residence requirement. Benefits are not transferable to an out-of-state residence. (3-1-85)

02. Application. The household must make a written application on forms prescribed by DHW. (9-24-81)

03. Living Situation. The household must reside in housing in which it is vulnerable to the increase in home energy costs and must incur home heating costs either directly or as an undesignated portion of rent or by cutting and transporting wood for its own use. Ineligible living situations include: (4-5-82)

a. Hospital; (9-24-81)

b. Nursing home; (9-24-81)

c. Shelter home; (9-24-81)

d. Commercial boarding house; (9-24-81)

e. Alcohol or drug treatment and rehabilitation center; (9-24-81)

f. Maternity home. (9-24-81)

04. Indians. An Indian household whose tribe has entered into a separate agreement to receive a direct LIHEAP grant to administer benefits directly to tribal members are not entitled to benefits under this program unless tribal funds are not available and/or funds are depleted and an emergency exists. Tribes which have entered into separate agreements include: (3-1-85)

a. Shoshone-Bannock Tribe; (9-24-81)

b. Kootenai Tribe; (3-2-87)

c. Nez Perce Tribe. (9-24-81)

05. Resident Status. Applicants are required to certify all household members' resident status. (3-5-91)

06. Resident Aliens. Aliens who entered the United States illegally before January 1, 1982, and who have obtained the status of aliens lawfully admitted for temporary residence pursuant to Section 245A or 210A of the Immigration and Nationality Act, with the exceptions stated below, are temporarily excluded from receiving LIHEAP benefits. (12-31-91)

a. Applicants are required to provide documentation issued by the U.S. Immigration and Naturalization Service setting forth the status of any and all alien members of the applicant household. (6-8-90)

b. Persons who have received 210A or 245A classification and are Cuban or Haitian entrants will be considered as eligible to apply for LIHEAP benefits. The term "Cuban and Haitian entrant" means: (6-8-90)

i. Any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti; and (6-8-90)

ii. Any other national of Cuba or Haiti who was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act; or is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or has an application for asylum pending with the Immigration and Naturalization Service. (6-8-90)

c. If a person ineligible under Subsection 152.06 meets one (1) of the definitions of aged, blind or disabled, as defined in Subsections 152.06.c.i. through 152.06.c.iii., and also meets the eligibility requirements pursuant to Section 150, that person shall be considered eligible. (12-31-91)

i. A person is considered aged if they are sixty-five (65) years of age or older. (6-8-90)

ii. An individual shall be considered blind if he has central visual acuity of twenty/two hundred (20/200) or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees shall be considered as having a central visual acuity of twenty/two hundred (20/200) or less. An individual shall also be considered blind if he is blind as defined under a state plan approved under Title X or XVI of the Social Security Act, as in effect for October, 1972 and received aid under such plan (on the basis of blindness) for December, 1973 so long as he is continuously blind as so defined. (6-8-90)

iii. A disability determination shall be made in the following manner: (6-8-90)

(1) An individual shall be considered disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months (or in the case of a child under the age of eighteen (18), if he suffers from any medically determinable physical or mental impairment of comparable severity). (6-8-90)

(2) An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to individuals), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country. (6-8-90)

(3) A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. (6-8-90)

(4) In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to reasonable limits. Notwithstanding the provisions of Subsection 152.06.c.ii., an individual whose services or earnings meet such criteria shall be found not to be disabled. (12-31-91)

(5) Notwithstanding the provisions of Subsection 152.06.c.iii.(1) through Subsection 152.06.c.iii.(4), an individual shall also be considered disabled if he is totally and permanently disabled as defined under a state plan

approved under Title XIV or XVI of the Social Security Act as in effect October, 1972 and received aid under such plan (on the basis of disability) for December, 1973 (and for at least one (1) month prior to July, 1973 so long as he is continuously disabled as so defined). (12-31-91)

(6) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility, the Department shall consider the combined effect of all the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Department finds a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process. (6-8-90)

d. If a household includes a person(s) who has 210A or 245A status, and that person(s) does not meet one (1) of the definitions in Subsection 152.06.b. or Subsection 152.06.c., they shall be included in the determination of household eligibility or benefit levels pursuant to Subsection 151.04. (11-1-93)

153. -- 199. (RESERVED).

200. INTAKE PROCESS.

LIHEAP applications will be provided according to the following procedures: (9-24-81)

01. Low-Income Households. Households may make application for LIHEAP benefits at a CAA office. The CAA office will determine the household's income and submit household information contained on the application directly to the DHW Energy Assistance computer system for determination of eligibility. (3-17-92)

02. Expedited Fuel. Where a need for expedited emergency fuel delivery can be demonstrated by an eligible household to the CAA, the contract agency will certify to the energy supplier a guarantee of the household's full assistance entitlement to be used to provide a source of immediate heat to the household. (3-17-92)

201. APPLICATION PROCESS.

Applicant households must be given a prompt opportunity to apply without delay. (9-24-81)

01. Date of Application. The application process begins the date the completed, date-stamped and signed HW0478, "Application for Client Assessment" and HW0479, "Low-Income Certification Form" with accompanying documentation are received by a CAA office. (11-1-93)

02. Representation of Applicant. An applicant household may be assisted by a person or persons of the household's choice and, when accompanied by such persons, may be represented by them. (9-24-81)

03. Written Application. An applicant household must be provided the forms necessary for DHW to make an eligibility determination. Such forms must contain a statement that clearly explains to the household that it is civilly or criminally liable for the truthfulness of the information it includes on the forms. (9-24-81)

04. Signature. The application must be signed by the head of the household if he is able, or by his designee. (9-24-81)

a. The household must be allowed to designate the head of the household. (9-24-81)

b. Whenever the head of the household is unavailable to sign the application in person, he must designate, in writing, the name of a person to sign the application in his behalf. (4-5-82)

i. The designee's signature must be followed by his address, if different from that of the household, and by the word "designee." (9-24-81)

ii. Employees of the CAA office or DHW must not be designated to sign the application. (9-24-81)

05. Signature by Mark. A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word "witness." (9-24-81)

06. Information to Applicant Households. Each applicant household must be informed of the LIHEAP eligibility requirements outlined herein, and the household's right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 300, et seq., and Section 503, "Rules Governing Contested Cases and Declaratory Rulings," if it disagrees with any action taken by DHW with respect to its application for LIHEAP benefits. The HW0478 and HW0478A "Application for Client Assessment" contain this information. (11-1-93)

07. Assistance with Application. Each applicant household must be provided assistance, when needed, in completing the application forms or in obtaining required documentation. The CAA office must provide this assistance and must additionally provide interpreters for households with limited English language skills and to non-English speaking households. (9-24-81)

202. DISPOSAL ACTIONS.

01. Time Limits. Each application is to be acted upon as quickly as possible. Unless circumstances beyond the control of DHW prohibit it, the maximum time limit permitted for acting on applications is to be thirty (30) days from the date the completed, signed and dated application is received by the DHW Central Office. (3-6-88)

02. Disposal. An application for LIHEAP benefits must be disposed of by one (1) of the following three (3) methods: (3-1-85)

a. Approval, that is, a determination that the household is eligible for LIHEAP benefits; or (3-1-85)

b. Denial, that is, a determination that the household is ineligible for LIHEAP benefits or that its eligibility could not be determined due to lack of necessary information or verification; or (3-1-85)

c. Withdrawal, that is: (9-24-81)

i. The household voluntarily requests that no further consideration be given to its application for LIHEAP benefits. If this occurs, the applicant must write "Withdrawn" on the application form and then date and sign the forms; or (3-1-85)

ii. The only person in the household dies before his eligibility has been determined. (9-24-81)

203. NOTIFICATION OF DECISION.

Each applicant household must be notified, in writing, of the decision made with regard to its LIHEAP application. (3-1-85)

01. Approvals. The notification for households whose application is approved, HW-0478 and HW0478A, "LIHEAP Notice of Award" states instructions on using the energy assistance warrant. The warrant states the date and the amount of benefit. (3-5-91)

02. Denials or Withdrawals. The notification for households whose application is denied, HW0486, "LIHEAP Notice of Denial," must contain the date, the reason for denial and an explanation of the household's right to a hearing as outlined in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 300, et seq., and Section 503, "Rules Governing Contested Cases and Declaratory Rulings." (12-31-91)

03. Decrease. If the household's amount of payments is to be less than indicated in a previous notice, the household must receive a notice of the reason for the decrease in amount. (4-5-82)

04. Time Limits. The notification must be provided within the time limits specified in Subsection 202.01. (12-31-91)

204. BENEFIT DETERMINATION.

Eligible households will have their benefit amount determined according to the household's county of residence, source of home energy, income, and highest energy needs based upon the household's unique situation i.e. children

under six (6) years of age, individuals with disabilities and frail individuals sixty (60) years of age or older.
 (12-1-95)T

01. Area of Residence. For purposes of LIHEAP benefits, the state has been partitioned into five (5) heating areas and each county with like numbers of heating degree days has been assigned to a particular area as shown in the table below:

COUNTY BREAKDOWNS IN HEATING AREAS				
AREA I			AREA IV	
Payette	5723		Boundary	7179
Canyon	5727		Bingham	7271
Ada	5840		Bonner	7330
Owyhee	5842		Franklin	7344
Gem	5886		Adams	7396
Gooding	5987		Oneida	7413
AREA II			Clearwater	7439
Nez Perce	6206		Bannock	7465
Washington	6240		Caribou	7505
Twin Falls	6262		Lemhi	7703
Jerome	6346		AREA V	
Elmore	6399		Blaine	7932
AREA III			Bonneville	8040
Kootenai	6664		Custer	8184
Benewah	6689		Jefferson	8291
Latah	6727		Madison	8320
Lewis	6729		Clark	8372
Minidoka	6782		Bear Lake	8413
Idaho	6860		Teton	8498
Cassia	6876		Butte	8617
Lincoln	6927		Camas	8701
Boise	6979		Fremont	8919
Shoshone	7010		Valley	9064
Power	7038			

(3-1-85)

02. Heating Source. For purposes of LIHEAP benefits, average annual heating costs are fixed as of November 1, and benefits will be calculated according to type of energy used, energy needs, family size, method of payment for home energy, and area of residence.
 (12-1-95)T

03. Household Income. The households' energy burden, unique energy needs and their income for the application as determined by Subsection 151.02 will be used to determine the percentage of their energy burden to be covered by the benefit amount. All other households unique energy needs will have the percentage of their energy burden to be covered determined by the lowest percentage of benefit amount. (12-1-95)T

205. METHOD OF PAYMENT.

The method of paying LIHEAP benefits to eligible households depends on the household's source of home heat and whether the cost of home heating is incurred directly or indirectly as an undesignated portion of the household's rent or reimbursement for costs of cutting its own wood. (3-1-85)

01. Energy Supplier. If a household incurs a direct cost for heat from an energy supplier, other than the major vendors participating in a direct payment system, benefits must be awarded in the form of a two-party warrant. (3-17-92)

a. A two-party warrant payable to the household and the energy supplier the household has designated as the source from which it buys its primary fuel. (3-17-92)

b. The two-party warrant must be endorsed by the energy supplier and the household. (9-24-81)

02. One-Party Warrant. Benefits will be provided in the form of a one-party warrant when the following situations exist: (3-12-86)

a. If a household incurs an indirect cost for heat because it pays for heat as an undesignated portion of rent; (3-12-86)

b. If a household designates wood as its primary heat source; or (3-17-92)

c. If a household designates one (1) of the major vendors as its primary energy supplier; or (3-17-92)

d. If a vendor refuses to accept a household's energy check and no comparable energy supplier can be found. (3-12-86)

03. Eligible Subsidized Housing Residents. Subsidized housing residents who are paying a vendor directly for heat will receive a benefit calculated at the lowest percentage of the annual heating costs as specified in Subsections 204.01, 204.02, and 204.03. (12-1-95)T

206. -- 299. (RESERVED).

300. TWO-PARTY WARRANT.

A household which receives a two-party warrant must endorse it and take or send it to the household's designated energy supplier whose name is imprinted on the face of the warrant, the household must furnish the warrant to that energy supplier in order to receive energy assistance benefits. (4-5-82)

01. Discontinued Service. If the household discontinues service with the designated vendor the benefit should be handled as follows: (3-5-91)

a. If the warrant amount exceeds a household's outstanding bill amount, the vendor must apply the remaining amount to a "Line of Credit" for the household. (3-5-91)

b. If the household discontinues service with the designated vendor but remains in-state, the latter will issue a two-party check to the household with a designated energy supplier as the second payee if known for the remaining credit. (3-5-91)

c. If the household discontinues service with the designated vendor by moving out-of-state after an emergency energy delivery has been provided by the vendor, the balance of the household benefit will be cancelled and a state warrant will be issued to the designated vendor. The amount issued will not exceed the amount of benefit the household is entitled to. If there is a credit on the household's account after the energy delivery payment, the credit

will be refunded to the Department. (3-5-91)

02. Nonexistent Household. In the event that the household no longer exists by virtue of death of all members or all members of the household move out-of-state, energy assistance credit will be returned to the Department. (3-5-91)

301. VENDOR AGREEMENTS.

01. Vendor. Where an energy supplier has entered into an agreement with the CAP to provide emergency fuel to an eligible household it must agree to: (4-5-82)

- a. Maintain service to eligible households, except as permitted in the vendor agreement; and (9-24-81)
- b. Practice no discrimination against eligible households with respect to offers of deferred payment or level payment plans, or in other conditions of sale, credit delivery, or price. (9-24-81)
- c. Observe provisions of Subsection 300.02 with regard to discontinued service. (12-31-91)
- d. Seek ways to reduce household home energy costs, minimize their risk of home energy crisis and encourage regular payments where consistent with applicable regulatory requirements. (11-1-94)

302. OVERPAYMENTS.

01. In General. An overpayment of LIHEAP benefits has occurred when a household or an energy supplier has received benefits to which it is not entitled or has received benefits in excess of the amount to which it is entitled. (3-1-85)

02. Types of Overpayments. An overpayment may occur for one (1) of the following reasons: (9-24-81)
- a. Due to administrative errors by DHW or a CAP office; or (9-24-81)
 - b. Due to errors by the household or energy supplier when willful misstatement or withholding of information has not occurred or has not been established; or (9-24-81)
 - c. Due to errors by the household or energy supplier when willful misstatement or withholding of information has been established; or (9-24-81)
 - d. Due to duplication of payment to a household, energy supplier or applicant who was previously included in an eligible household during current program. (11-1-94)

03. Conditions of Endorsement. When energy suppliers endorse the two-party warrant, they certify that, to the best of their knowledge, the funds are being used to provide home energy for the eligible household. (9-24-81)

303. -- 994. (RESERVED).

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.

The provisions in Sections 000 through 999 inclusive, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the state of Idaho, these provisions or any part therein shall be considered dormant and advance notice of termination or reduction of benefits may be disposed. In the event that additional funds are available a supplemental payment can be made, in an equitable manner, to each eligible household at the discretion of the Director. (12-31-91)

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05,

Chapter 03, Sections 300, et seq., and Section 503, "Rules Governing Contested Cases and Declaratory Rulings."
(12-31-91)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records."
(12-31-91)

998. INCLUSIVE GENDER.

As used in these rules, the masculine, feminine, or neuter gender, and the singular or plural number, will each be deemed to include the others whenever the context so requires.
(9-24-81)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, IDAPA 16, Title 04, Chapter 14, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, such invalidity shall not affect the validity of any other provision contained herein.
(9-24-81)