

# IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

## Division of Welfare

### 16.04.14 – Low-Income Home Energy Assistance Program (LIHEAP)

#### **Who does this rule apply to?**

*For those seeking home heating assistance under the Low-Income Home Energy Assistance Program Low-Income Home Energy Assistance Program (LIHEAP).*

#### **What is the purpose of this rule?**

*These rules provide the eligibility requirements for LIHEAP. 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. This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year.*

#### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statute passed by the Idaho Legislature:*

Public Assistance and Welfare -  
Public Assistance Law:

- [Section 56-202, Idaho Code – Duties of Director of State Department of Health and Welfare](#)

#### **Where can I find information on Administrative Appeals?**

*Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.”*

#### **How do I request public records?**

*Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, “Use and Disclosure of Department Records.”*

#### **Who do I contact for more information on this rule?**

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Webpage:

<https://healthandwelfare.idaho.gov/FoodCashAssistance/HeatingTelephone/tabid/91/Default.aspx>

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## 16.04.14 – LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

### 000. LEGAL AUTHORITY.

This program is authorized by the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, and by provisions of Section 56-202 Idaho Code. (7-1-21)T

### 001. TITLE, SCOPE, AND LIMITATIONS.

**01. Title.** These rules are titled IDAPA 16.04.14, “Low-Income Home Energy Assistance Program,” and may also be known as LIHEAP. (7-1-21)T

**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. (7-1-21)T

**03. Program Limitation.** This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year. (7-1-21)T

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

For purposes of this chapter of rules, the following terms apply. (7-1-21)T

**01. Crisis Assistance.** Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (7-1-21)T

**02. Department.** The Department of Health and Welfare or its designee. (7-1-21)T

**03. Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). (7-1-21)T

**04. Fraud.** A deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. (7-1-21)T

**05. Head of Participant Household.** The person designated by the household members to receive energy assistance benefit on behalf of the household and in whose favor the energy assistance warrant is written. (7-1-21)T

**06. Income.** The gross amount of moneys received by the participant household from all sources. (7-1-21)T

**07. Participant.** An individual or group of individuals who has applied for the Low-Income Home Energy Assistance Program from the state of Idaho. (7-1-21)T

**08. Participant Household.** A participant household is one (1) of the following: (7-1-21)T

**a.** An individual who lives alone; or (7-1-21)T

**b.** A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or they make undesignated payments for energy in the form of rent. (7-1-21)T

**09. Primary Fuel.** The type of fuel declared by the participant household to be the major source of their home heating. (7-1-21)T

**10. Undocumented Resident.** Individuals who enter the United States illegally and who have not obtained legal resident status. (7-1-21)T

**11. Vendor.** A utility company or other provider of fuel utilized for home heating. (7-1-21)T

### 011. -- 099. (RESERVED)

### 100. PARTICIPANT CASE RECORD.

The participant case record is the documentary basis justifying the expenditure of LIHEAP funds. All material pertinent to a participant household will be retained for a permanent record. Each eligibility determination 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. (7-1-21)T

**101. ELIGIBLE ACTIVITIES.**

Funds made available through the LIHEAP grant will be used as follows: (7-1-21)T

**01. Home Utility and Bulk Fuel Costs.** These costs include those incurred by the eligible participant household for electricity, natural gas and bulk fuel for home energy needs, but does not include costs incurred for telephone, water, trash or sewer. (7-1-21)T

**02. Governor Declared Emergency or Disaster.** A portion of the LIHEAP grant funds may be used for home heating supply shortages experienced by the participant household or a weather-related emergency which threatens the health or lives of an area's inhabitants such that the Governor declares a state of emergency. (7-1-21)T

**03. Catastrophic Illness Costs.** Households with income exceeding eligibility guidelines may be eligible due to catastrophic illness. The household's unreimbursed medical expenses from the previous twelve (12) months are subtracted from the household's gross income for the same period. If the household then meets income guidelines, the Department makes a final eligibility determination. (7-1-21)T

**102. PARTICIPANT RIGHTS.**

The Department must inform participants of the following rights during the application and eligibility determination process: (7-1-21)T

**01. Right to Apply.** Any participant household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All participants must apply in writing. (7-1-21)T

**02. Right to a Hearing.** Rules governing hearing rights are contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-21)T

**03. Civil Rights.** The rights of participant 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 subjection to harassment. (7-1-21)T

**103. PARTICIPANT RESPONSIBILITIES.**

Each participant applying for LIHEAP benefits must, to the extent permitted by their physical and mental condition, provide all necessary and reasonable verification to establish eligibility, and must otherwise cooperate in the eligibility determination process. (7-1-21)T

**104. RELATIONSHIP TO OTHER PROGRAMS.**

LIHEAP benefits paid to eligible participant households 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. (7-1-21)T

**105. -- 149. (RESERVED)**

**150. ELIGIBILITY REQUIREMENTS AND COLLATERAL CONTACTS.**

All participant households assisted through LIHEAP must provide proof of both financial eligibility requirements and non-financial eligibility requirements. (7-1-21)T

**01. Failing to Meet the Financial and Non-Financial Eligibility.** Participant households failing to meet the financial and non-financial eligibility requirements will be denied LIHEAP assistance. (7-1-21)T

**02. Participant's Signature.** A participant's signature on the application is their consent for the Department to contact collateral sources for verification of the eligibility requirement(s). (7-1-21)T

**151. INCOME ELIGIBILITY REQUIREMENTS.**

- 01. Households Receiving SSI or Food Stamps.** Households in which one (1) or more individuals are receiving one (1) of the following are eligible for LIHEAP: (7-1-21)T
- a. Supplemental Security Income (SSI) under Title XVI of the Social Security Act; or (7-1-21)T
  - b. Food Stamps under the Food Stamp Act of 1977, under 7 USC 2011 through 2027. (7-1-21)T
- 02. Income Not Counted.** Income listed in Subsections 151.02.a. through 151.02.t. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (7-1-21)T
- a. Benefit payments from Medicare Insurance. (7-1-21)T
  - b. Private loans made to the participant or the household. (7-1-21)T
  - c. Assets withdrawn from a personal bank account. (7-1-21)T
  - d. Sale of real property, if the funds are reinvested within three (3) calendar months. (7-1-21)T
  - e. Income tax refunds. (7-1-21)T
  - f. Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (7-1-21)T
  - g. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (7-1-21)T
  - h. Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (7-1-21)T
  - i. Legal fees or settlements from Workman's Compensation paid in a lump sum. (7-1-21)T
  - j. Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (7-1-21)T
  - k. Monies from VA-GI Bill for Education. (7-1-21)T
  - l. Department of Health and Welfare Adoption subsidies. (7-1-21)T
  - m. Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (7-1-21)T
  - n. Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (7-1-21)T
  - o. Value of food stamps or donated food to household. (7-1-21)T
  - p. Utility allowance. (7-1-21)T
  - q. TAFI lump sum payments. (7-1-21)T
  - r. Tribal crop or land payments. (7-1-21)T

- s. AmeriCorps stipend. (7-1-21)T
- t. Child support income. (7-1-21)T

**152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.**

**01. Residence.** When the application is completed, the household must reside in the state of Idaho. LIHEAP benefits are not transferable to an out-of-state residence. (7-1-21)T

**02. Living Situations.** The household must reside in housing where they are responsible for home energy costs and incur the costs either directly or as an undesignated portion of their rent. (7-1-21)T

**03. Native Americans.** Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: (7-1-21)T

- a. Tribal funds are not available. (7-1-21)T
- b. Funds are depleted and an emergency exists. (7-1-21)T

**04. Resident Status.** As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. At least one (1) household member must be a citizen or legal resident of the United States. (7-1-21)T

**153. -- 200. (RESERVED)**

**201. APPLICATION PROCESS.**

A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings." (7-1-21)T

**01. Date of Application.** The participant application process begins the date the completed and signed application and all supporting forms are received by the Department. (7-1-21)T

**02. Participant Representation.** A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (7-1-21)T

**03. Signature.** The application must be signed by the participant designated as the head of household, or their designee. Electronic signatures are acceptable. (7-1-21)T

- a. Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file. (7-1-21)T
- b. Employees of the Department must not be designated to sign the application. (7-1-21)T

**04. 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." (7-1-21)T

**05. Assistance with Application.** When completing the application forms or obtaining required documentation, the Department will assist limited or non-English speaking applicants by providing interpreter services. (7-1-21)T

**202. APPLICATION TIME LIMITS AND DISPOSAL ACTIONS.**

Unless circumstances beyond the control of the Department prohibit it, each application is to be acted upon within thirty (30) days from the date the application is completed and signed by the participant. An application for LIHEAP assistance must be disposed of by one (1) of the following three (3) methods: (7-1-21)T

- 01. Approval.** A determination the participant household is eligible for LIHEAP benefits. (7-1-21)T
- 02. Denial.** A determination the participant household is ineligible for LIHEAP benefits or that eligibility could not be determined due to lack of necessary information or verification. (7-1-21)T
- 03. Withdrawal.** The participant household voluntarily requests that no further consideration be given to their application or the participant becomes deceased. (7-1-21)T

**203. NOTIFICATION OF DECISION.**

Each participant household must be notified, in writing, of the decision made with regard to their LIHEAP application for assistance. (7-1-21)T

**01. Approvals.** At the time the application is completed, the participant household will receive a copy of their preliminary approval notification. The Department issuance of the benefit payment or denial notice will be the participant household's formal eligibility notification. (7-1-21)T

**02. Denials or Withdrawals.** The LIHEAP Notice of Denial will be provided to participant households denied assistance and include the reason for the denial and an explanation of the participant household's right to appeal the eligibility decision. (7-1-21)T

**204. -- 299. (RESERVED)**

**300. CONDITION OF PAYMENT ENDORSEMENT.**

When an eligible participant household receives a LIHEAP benefit payment directly, they must endorse it and take it to their designated energy supplier. Two-party payments will have the name of the energy supplier imprinted on the face of the warrant. When an eligible participant and their energy supplier endorse the LIHEAP benefit payment, they certify that to the best of their knowledge, the funds are being used to provide home energy for the eligible participant household. (7-1-21)T

**301. VENDOR AGREEMENTS.**

All participating energy suppliers must enter into a vendor agreement with the Department to provide home energy assistance to eligible participant households. (7-1-21)T

**302. OVERPAYMENTS.**

Payments issued on behalf of a participant household that is not eligible must be repaid to the Department. (7-1-21)T

**303. RECOUPMENT OF OVERPAYMENT.**

**01. Recoupment of Overpayment.** The Department may recoup or recover the amount issued on behalf of a LIHEAP participant. Interest will accrue on overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Recoupment of an overpayment based on Department error may be collected from a vendor or participant when the overpayment is one hundred dollars (\$100), or more. Interest will not accrue on overpayments made due to Department error. An overpayment due to vendor or participant error, intentional program violations (IPV), or fraud must be recovered in full. (7-1-21)T

**02. Repayment Requirement.** A vendor or participant must repay any overpayment, but may negotiate a repayment schedule with the Department. Failure to comply with the negotiated repayment agreement will result in revocation of that agreement and may result in the revocation of the vendor agreement. (7-1-21)T

**304. -- 309. (RESERVED)**

**310. INTENTIONAL PROGRAM VIOLATIONS (IPV).**

An IPV is an intentionally false or misleading action or statement. An IPV is established when a vendor or participant admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a

determination of guilt because the accused vendor or participant meets the terms of a court order or an agreement with the prosecutor. The following are IPV's: (7-1-21)T

**01. False Statement.** Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. (7-1-21)T

**02. Misleading Statement.** Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. (7-1-21)T

**03. Misrepresentation of Fact.** Made to the Department by an individual or vendor orally or in writing, to participate in LIHEAP. (7-1-21)T

**04. Concealed Fact.** Concealed or withheld from the Department by an individual or vendor to participate in LIHEAP. (7-1-21)T

**05. Non-Compliance with Rules and Regulations.** (7-1-21)T

**06. Violation of Vendor Agreement.** (7-1-21)T

**07. Failure to Repay.** (7-1-21)T

**311. PENALTIES FOR AN IPV.**

When the Department determines an IPV was committed, the participant or vendor who committed the IPV loses eligibility to participate in LIHEAP. If an individual in a LIHEAP household has committed an IPV, the entire household is ineligible for LIHEAP. If a vendor has committed an IPV, the vendor is ineligible to receive payments. The period of ineligibility for each offense, for both a participant or a vendor, is as follows: (7-1-21)T

**01. First Offense.** Twelve (12) months, for the first IPV or fraud offense, or the length of time specified by the court. (7-1-21)T

**02. Second Offense.** Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. (7-1-21)T

**03. Third Offense.** Permanent ineligibility for the third or subsequent IPV or fraud offense, or the length of time specified by the court. (7-1-21)T

**312. -- 319. (RESERVED)**

**320. DENIAL OF PAYMENT.**

The Department may deny payment to the vendor or participant for the following reasons: (7-1-21)T

**01. Services Not Provided.** Any or all claims for vendor services the Department determines were not provided. (7-1-21)T

**02. Contrary to Rules or Provider Agreement.** Vendor services provided contrary to these rules or the vendor agreement. (7-1-21)T

**03. Failure to Provide Immediate Access to Records.** The vendor does not allow immediate access by the Department to LIHEAP records. (7-1-21)T

**04. Willful Misrepresentation or Concealment of Facts.** The vendor or participant willfully misrepresents or conceals facts relating to LIHEAP. (7-1-21)T

**321. -- 349. (RESERVED)**

**350. TERMINATION OF VENDOR STATUS.**

Under Section 56-209h, Idaho Code, the Department may terminate the vendor agreement of, or otherwise deny



vendor status for up to five (5) years from when the Department's action becomes final to any individual or entity providing LIHEAP. The following are bases for the Department to terminate vendor status: (7-1-21)T

- 01. Knowing Submission of an Incorrect Claim.** (7-1-21)T
- 02. Submission of a Fraudulent Claim.** (7-1-21)T
- 03. False Statements.** Knowingly making a false statement or representation of material facts in any document required to be maintained or submitted to the Department. (7-1-21)T
- 04. Failure to Provide Immediate Access to Required Documentation Upon the Department's Written Request.** (7-1-21)T
- 05. Non-Compliance With Rules and Regulations.** (7-1-21)T
- 06. Violation of Material Term or Condition of the Vendor Agreement.** (7-1-21)T
- 07. Failure to Repay.** Failure by a managing employee or one with an ownership or control interest in any entity to repay overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or vendor agreement. (7-1-21)T
- 08. Fraudulent or Abusive Conduct in Connection with the Delivery of LIHEAP-Funded Services.** Being found, or being a managing employee in any entity who is found, to have engaged in fraudulent or abusive conduct. (7-1-21)T

**351. REFUSAL TO ENTER INTO AN AGREEMENT.**

The Department may refuse to enter into a vendor agreement for the following reasons: (7-1-21)T

- 01. Convicted of a Felony.** The vendor has been convicted of a felony relating to their involvement in a public assistance program. (7-1-21)T
- 02. Failed to Repay.** The vendor has failed to repay the Department monies which had been previously determined to have been owed to the Department. (7-1-21)T
- 03. Investigation Pending.** The vendor has a pending investigation for program fraud or abuse. (7-1-21)T
- 04. Terminated Vendor Agreement.** The vendor was the managing employee, officer, or owner of an entity whose vendor agreement was terminated under Section 350 of these rules. (7-1-21)T
- 05. Excluded Individuals.** The vendor has a current exclusion from participation in federal programs by the Office of Inspector General List of Excluded Individuals and Entities. (7-1-21)T

**352. VENDOR OR PARTICIPANT NOTIFICATION.**

When the Department determines any actions defined in Sections 303 through 351 of these rules are appropriate, it will send written notice of the decision to the vendor or participant. The notice will state the basis for the action, the length of the action, the effect of the action on the participant or the vendor's ability to provide services under state and federal programs, and appeal rights. (7-1-21)T

**353. -- 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 are considered dormant; there may be no advance notice of termination or reduction of benefits. If additional funds are available, a supplemental payment may be made, in an equitable manner, to each eligible household at the discretion of the Director. (7-1-21)T

996. -- 999. (RESERVED)

APPROVED

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