



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

Office of Community Services | 330 C Street, S.W., Washington, DC 20201  
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**Low Income Home Energy Assistance Program  
Information Memorandum**

**IM#:** LIHEAP-IM-2023-01

**DATE:** May 24, 2023

**TO:** Low Income Home Energy Assistance Program (LIHEAP) Grant Recipients

**SUBJECT:** Federal Poverty Guidelines (FPG) for LIHEAP Income Eligibility Optional Use in Federal Fiscal Year (FFY) 2023 LIHEAP and Mandatory Use in FFY 2024 LIHEAP

**ATTACHMENT(S):** (1) Federal Register Vol. 88, No. 12/Thursday, January 19, 2023/Notice Department of Health and Human Services Annual Update of the HHS Poverty Guidelines (88 FR 3424).  
(2) 100 percent, 110 percent, and 150 percent of the Federal Poverty Guidelines for 50 states and the District of Columbia, Published on January 19, 2023 by the U.S. Department of Health and Human Services.  
(3) 100 percent, 110 percent, and 150 percent of the Federal Poverty Guidelines, adjusted for LIHEAP Use by Puerto Rico.

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**RELATED REFERENCES**

- (1) The Low Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended;
- (2) 45 CFR 96.85(a), Income Eligibility - Final Rule, published in the **Federal Register** March 3, 1988 (53 FR 6827) and amended October 15, 1999 (64 FR 55858); and
- (3) Annual Update of the HHS Poverty Guidelines, **Federal Register** notice dated Thursday, January 19, 2023 (88 FR 3424).

**PURPOSE**

To provide LIHEAP-specific updates to the Federal Poverty Guidelines (FPG), which the U.S. Department of Health and Human Services (HHS), Office of the Assistant Secretary for Planning and Evaluation (ASPE) issued on January 19, 2023. LIHEAP grant recipients that base their

income-eligibility criteria on FPG may use these guidelines for their Federal Fiscal Year (FFY) 2023 programs and **must** use these guidelines for their FFY 2024 programs.

To provide LIHEAP-specific adjustments to the FPG for recommended use by the Commonwealth of Puerto Rico and the other U.S. territories that provide LIHEAP assistance in FFY 2023 and 2024.

## **BACKGROUND**

Section 2605(b)(2)(B) of Public Law 97-35, 42 U.S.C. § 8624(b)(8)(B), establishes the following requirements that LIHEAP grant recipients must follow in setting the income-eligibility criteria of their programs:

- (1) Grant recipients may make eligible solely on the basis of household income **which does not exceed the greater of—**
  - (A) an amount equal to 150 percent of FPG for the State; or
  - (B) an amount equal to 60 percent of the State Median Income (SMI) for the State; and
- (2) Grant recipients may not exclude from eligibility solely on the basis of household income which falls below 110 percent of FPG for such State—though grant recipients may give priority to those households with the highest home energy costs or needs in relation to household income.

## **CONTENT**

ASPE updated the FPG in a **Federal Register** notice that was published on January 19, 2023. Attachment one presents the text of that notice.

LIHEAP grant recipients that use FPG to set their income-eligibility criteria are to adopt these guidelines in the manner indicated below.

### ***Optional Use***

LIHEAP grant recipients may adopt these guidelines at any time on or after January 19, 2023 (the effective date announced in the **Federal Register** notice) and September 30, 2023 (the end of FFY 2023).

### ***Mandatory Use***

Each LIHEAP grant recipient must adopt these guidelines by no later than October 1, 2023 (the beginning of FFY 2024) or the beginning of that recipient's 2024 fiscal year, whichever is later.

### ***Federal Income Eligibility Range***

All LIHEAP grant recipients must set their income-eligibility criteria between 110 percent of these guidelines and **the greater of** (1) 150 percent of these guidelines; and (2) 60 percent of SMI. The states' limits according to these guidelines are shown in Attachment two.

### ***Household***

Household is defined in the Section 2603(5) of the LIHEAP statute [42 U.S.C. § 8622(5)] as “any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.”

### ***Income***

The LIHEAP statute does not define income. Generally, income means gross income, but a number of grant recipients choose to use net income to deduct for medical expenses over a certain level, or for some limited expenses associated with employment such as childcare.

### ***Program Eligibility Criteria***

Grant recipients have the option, but are not required, to establish additional requirements for income-eligible households to be eligible for LIHEAP.

### ***Territorial Calculations***

HHS does not issue poverty guidelines overall for federal programs in the territories. HHS has indicated that federal programs are generally responsible for deciding whether to use the Continental United States poverty guidelines for the territories or to follow some other procedure (as referenced in 88 FR 3424 (Attachment one)). However, the Office of Community Services has developed an approach to annually adjust the poverty guidelines for the Commonwealth of Puerto Rico's use in determining LIHEAP income eligibility. A similar adjustment is not available for the other territories at this time. OCS recommends that the other territories use the adjusted poverty guidelines provided in Attachment three in determining LIHEAP income eligibility for FFY 2024.

## **INQUIRIES TO**

Please send all inquiries to:

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Thank you for your attention to these matters. OCS looks forward to continuing to provide high-quality services to OCS partners.

/s/  
Dr. Lanique Howard  
Director  
Office of Community Services