



ADMINISTRATION FOR
CHILDREN & FAMILIES

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Low Income Household Water Assistance Program Information Memorandum

IM#: LIHWAP-IM-2022-02

DATE: January 13, 2022

TO: Low Income Household Water Assistance Program (LIHWAP) Grant Recipients

SUBJECT: FY 2022 First Quarter Update to Frequently Asked Questions and Answers about Administering the Low Income Household Water Assistance Program

ATTACHMENT(S): N/A

The Office of Community Services (OCS) plans to issue periodic updates on critical questions related to the Low Income Household Water Assistance Program (LIHWAP) to clarify items from previous guidance or answer new questions, as necessary. Please note that this guidance may include additional information or clarifications to previous answers provided in the [LIHWAP-IM-2021-03](#) Frequently-Asked Questions guidance.

Community Septic Wastewater Services

- Question:** In previous guidance (see question #25 of LIHWAP-IM-2021-03), OCS indicated that LIHWAP funds may not be used for household costs associated with private wells and septic systems because these would not be payments to owners or operators of public water systems or treatment works. Does this limitation still apply if a grant recipient has a formal agreement with one or more local septic service providers for wastewater removal as a public service?

OCS Response: While LIHWAP funds may not be used for private well or septic payments to households, LIHWAP grant recipients may define wastewater treatment works to include septic services offered through contract as a service to a community of income-eligible households, provided that payments are made by the grant recipient directly to a vendor based on a LIHWAP vendor agreement for wastewater removal. For

example, in some rural and tribal communities, the local government contracts with a local company to offer periodic septic wastewater removal to the community. In these circumstances, the grant recipient may define water treatment works to include that provider and use LIHWAP funds to reimburse for household services in lieu of a household payment.

LIHWAP Services to Qualified Noncitizens

2. **Question:** In previous guidance (see question #26 of LIHWAP-IM-2021-03), OCS indicated that LIHWAP falls within the definition of “Federal Public Benefits,” outlined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which limits eligibility for benefits to citizens or to qualified noncitizens (e.g., lawful permanent residents, asylees, refugees, and certain individuals with parole status). The previous guidance indicated that these qualified noncitizens may not receive benefits for a period of 5 years beginning on the date of entry with a qualified status. This 5-year limitation does not apply to LIHEAP. Can you please clarify whether this 5-year restriction applies to LIHWAP?

OCS Response: The previous guidance that indicated that qualified non-citizens may not receive LIHWAP benefits for a period of 5 years was inadvertently added to the guidance and is not correct. The 5-year waiting period is applied by Section 403 of PRWORA, 8 U.S.C. 1613, to “Federal means-tested public benefits.” The only programs within HHS that have been deemed “Federal means-tested public benefits” are Medicaid and TANF. No other HHS programs qualify. Thus, the 5-year waiting period does not apply to LIHEAP or LIHWAP.

Afghan Humanitarian Parolees

3. **Question:** Can LIHWAP funds be used for Afghan Humanitarian Parolee populations recently arriving in our state?

OCS Response: On September 30, 2021, Congress passed the Afghanistan Supplemental Appropriations Act, 2022 (Public Law 117-43). Section 2502 of this legislation provides that Afghan humanitarian parolees are now eligible to receive federal benefits, including LIHEAP and LIHWAP, from the date of enactment. Specifically, the following individuals are all eligible until March 31, 2023 (or the term of parole, whichever is longer):

- Afghan citizens and nationals paroled into the United States between July 31, 2021, and September 30, 2022;
- their spouses or children paroled after September 30, 2022; and

- their parents or guardians paroled after September 30, 2022, if the Afghan citizen or national is an unaccompanied child.

Additional information on resources for Afghan Humanitarian Parolee populations is available on the [website](#).

Liens and Third-Party Debt Collections

4. **Question: Is it permissible to use LIHWAP funds to pay for water and/or wastewater arrearages transferred to a third-party debt collector, such as the County Assessor Office, including associated administrative fees from a lien being placed on a household dwelling?**

OCS Response: Yes, payment of arrearages for household water and/or wastewater services are allowable regardless of whether the debt has been transferred to a third-party debt collector. In cases where liens are placed on a property, associated administrative fees that were charged to the household can be included, provided they are consistent with the ongoing business practices of the utility vendor that are typically charged to customers.

Where a household's water and/or wastewater arrearages are subsequently transferred to a third-party debt collector, LIHWAP benefit payments are allowable. In approving these benefit payments, the grant recipient must work with the third-party debt collector, utility vendor, and eligible household to validate arrearages and allowable administrative fees that were charged to the household. LIHWAP benefit payments must only cover administrative fees consistent with the existing and ongoing business practices of the utility vendor. No additional or special fees may be charged to LIHWAP households as a result of their participation of the LIHWAP program.

Landlord/Renter Agreements

5. **Question: What legal authority do grant recipients have to ensure that in cases where payments for water and waste water services are included in monthly rent payments, the landlord is providing LIHWAP households with rent reductions in the amount equal to the LIHWAP benefit payment made for water services delivered to eligible household?**

OCS Response: Through payment agreements, the grant recipient should ensure landlords agree that by accepting a LIHWAP benefit payment made to a utility vendor on behalf of a household, the landlord is bound by LIHWAP requirements to provide the household with rent reduction(s) in the amount equal to the benefit received. To ensure proper enforcement of this program requirement, OCS highly encourages grant

recipients to develop a “three-party” agreement where all parties (grantee, landlord, and household) acknowledge the following:

- The LIHWAP benefit payment is made directly to the utility vendor to be applied to the landlord’s account for water service delivered to the household. This LIHWAP benefit payment should not exceed the amount the household is paying for water service, which may be included in the monthly rent.
- The landlord shall acknowledge the LIHWAP benefit payment is a benefit for the household, though the benefit payment is made directly to the utility vendor for an account under the landlord’s name.
- The landlord and renter agree the LIHWAP benefit shall be provided to the household in the form of rent reduction prospectively and shall not be less than the amount of LIHWAP benefit paid to the utility vendor.
- The grant recipient must implement monitoring and enforcement procedures to ensure LIHWAP benefits are received by the program’s intended recipients. These procedures should include, but not limited to, (i) providing all parties a copy of the signed three-party agreement, (ii) verifying of the intended beneficiaries (renters), and (iii) providing notifications to both the renters and landlords to explicitly outline a process how renters will retrieve their authorized LIHWAP benefit payment through prospective reduction in rent payment(s).

LIHWAP grant recipients are responsible for implementing their own monitoring and enforcement authorities and for systems to prevent fraud and improper use of funds. This includes payments to landlords that do not benefit renters. Grant recipients should use their own monitoring and enforcement authorities and systems to ensure that landlords comply with payment agreements and intended renters receive their assistance. Three party agreements should be set up in such a way that minimizes the burden and actions required by renters applying for LIHWAP benefits.

6. **Question: In incidences where landlords fail to pass the LIHWAP benefit to the intended household through rent reduction, despite the grant recipient having implemented monitoring and enforcement procedures based on best practices, would these incidents be reported as findings or material weaknesses during an audit?**

OCS Response: Auditors may make a determination based on the specific circumstances of their review. If LIHWAP payments ultimately benefitted only landlords and not the eligible households they were intended to assist due to improper and inadequate monitoring procedures, the payments could be subject to findings or material weaknesses during an audit, subject to the discretion of the auditor. To prevent this issue, grant recipients are strongly encouraged to implement monitoring and enforcement procedures based on best practices to ensure LIHWAP benefits are

received by the program's intended recipients. When the grant recipient has taken reasonable measures to implement monitoring and enforcement procedures, an incident where a landlord breached an agreement to pass LIHWAP benefits as a reduction in rent payment to an eligible households is less likely to be reported as findings or material weaknesses during an audit. In addition, while OCS cannot guarantee that any audit will not result in a finding or material weakness, OCS will give strong consideration to any good faith efforts through agreements and monitoring when determining whether a disallowance would be warranted.

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

/s/

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