



ADMINISTRATION FOR
CHILDREN & FAMILIES

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Low Income Home Energy Assistance Program Information Memorandum

IM#: LIHEAP-IM-2020-01

DATE: May 29, 2020

TO: LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) GRANTEES AND OTHER INTERESTED PARTIES

SUBJECT: U.S. Department of Health and Human Services (HHS) Poverty Guidelines for Optional Use in Federal Fiscal Year (FFY) 2020 LIHEAP and Mandatory Use in FFY 2021 LIHEAP

ATTACHMENT(S): (1) [The Federal Register notice announcing the annual update of the Federal Poverty Guidelines, published on January 17, 2020 \(85 FR 3060-3061\).](#)
(2) [100 percent, 110 percent, 150 percent of the HHS Federal Poverty Guidelines, adjusted by family size.](#)
(3) [100 percent, 110 percent, 150 percent of LIHEAP Adjusted Poverty Guidelines, adjusted by family size, Commonwealth of Puerto Rico.](#)

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 January 17, 2020 (85 FR 3060-3061).

PURPOSE

To provide LIHEAP-specific updates to the U.S. Department of Health and Human Services (HHS) Federal Poverty Guidelines (FPG), which the HHS/Office of the Assistant Secretary for Planning and Evaluation (ASPE) issued on January 17, 2020. LIHEAP grantees that base their income-

eligibility criteria on FPG may use these guidelines for their FFY 2020 programs and **must** use these guidelines for their FFY 2021 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 2020 and 2021.

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 grantees must follow in setting the income-eligibility criteria of their programs:

- (1) Grantees 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) Grantees may not exclude from eligibility solely on the basis of household income which falls below 110 percent of FPG for such State—though grantees 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 17, 2020. [Attachment 1](#) presents the text of this notice.

LIHEAP grantees that use FPG to set their income-eligibility criteria are to adopt these guidelines in the manner indicated below by the Division of Energy Assistance (DEA) within the Office of Community Services (OCS), ACF, HHS.

Optional Use

LIHEAP grantees may adopt these guidelines at any time on or after January 17, 2020 (the date of publication in the Federal Register) and September 30, 2020 (the end of FFY 2020).

Mandatory Use

LIHEAP grantees must adopt these guidelines by no later than October 1, 2020 (the beginning of FFY 2021) or the beginning of a grantee's 2021 fiscal year, whichever is later.

Federal Income Eligibility Range

All LIHEAP grantees 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. These limits are shown in [Attachment 2](#).

Household

Household is defined in the Section 2603(5) of the LIHEAP statute [42 U.S.C. § 8622] 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 grantees choose to use net income to deduct for medical expenses over a certain level, or for some limited expenses associated with employment such as child care.

Program Eligibility Criteria

Grantees have the option to establish additional requirements for income-eligible households to be eligible for LIHEAP, such as responsibility for home energy costs, completion of an application by a certain deadline, an assets test, or age or health problems.

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 “Annual Update of the HHS Poverty Guidelines,” Federal Register, Vol. 85, No. 12, January 17, 2020, pages 3060-3061 ([Attachment 1](#))). However, DEA has developed an approach to adjust annually the HHS poverty guidelines for the Commonwealth of Puerto Rico’s use in determining LIHEAP income eligibility (see [Attachment 3](#)). A similar adjustment is not available for the other territories at this time. DEA recommends that the other territories use the adjusted poverty guidelines provided in [Attachment 3](#) in determining LIHEAP income eligibility for FFY 2020.

INQUIRIES TO

Please send all inquiries to the following individual:

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

/s/
Lauren Christopher
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Office of Community Services