

CONSUMER CONCERNS

Information for Advocates
Representing Older Adults

National Consumer Law Center®

Low-Income Home Energy Assistance Program (LIHEAP)

The federal Low Income Energy Assistance Program (LIHEAP),¹ commonly called “fuel assistance,” is the cornerstone of government efforts to help struggling American households meet their home energy needs by making energy bills more affordable. LIHEAP assistance can apply to a wide range of home energy fuels, including electricity, natural gas, and deliverable fuels such as propane and wood. Assistance is targeted to the most vulnerable households, including elders². Recipients of this federal assistance depend on the LIHEAP benefit to help keep their households connected to essential heating and/or cooling services.

This issue of Consumer Concerns for Older Americans offers practical advice to advocates that may help them assist their elderly clients with enrolling in and receiving LIHEAP benefits. Doing so may help such clients avoid a pending termination of heating or cooling service.

Administration of LIHEAP Benefits

Through annual block grants awarded by the Secretary of the U.S. Department of Health and Human Services (HHS) to the states, LIHEAP primarily assists low-income households in making payments on their heating and cooling bills. LIHEAP can provide energy crisis assistance within 48 hours of application by an eligible household³. LIHEAP benefits can also include low-cost weatherization and home repairs that increase a household’s energy efficiency. LIHEAP’s leveraging program provides incentive grants to states for adding non-federal resources to increase the total home energy resources or benefits available to low-income households⁴. Lastly, additional emergency funding can be requested by the President, for emergencies including a natural disaster; a significant home energy supply shortage or disruption; a significant increase in unemployment, home energy costs, disconnections, or participation in a public benefit program⁵.

¹ 42 U.S.C. § 8621- § 8630 (the federal LIHEAP statute); 45 C.F.R. 96.80 – 96.89 (federal LIHEAP regulations).

² 42 U.S.C. § 624(b); 42 U.S.C. § 8622(4).

³ 42 U.S.C. § 8623(c)(1) (48 hour response). Additionally, for household with life-threatening situations, the energy crisis must be resolved within 18 hours of the household’s application for energy crisis intervention. 42 U.S.C. § 86239(c)(2).

⁴ See 42 U.S.C. § 8626(b); 45 C.F.R. 96.87(d). Resources and benefit can include cash assistance payments; fuel purchase; purchases for and installation, replacement and repair of weatherization materials; installation replacement and repair of heating and cooling equipment; devices and systems; home energy discounts and waivers applied to fuel, non-fuel, items, or services that help low-income households meet home energy costs; certain donations, unpaid volunteers’ and paid staff services. See 45 C.F.R. § 96.87(e).

⁵ 42 U.S.C. §§ 8621(e), 8622(1).

LIHEAP is administered by each state, which must submit a State Plan to HHS. States have flexibility in the design of their LIHEAP benefits and programs. A state sometimes may contract with community based organizations to assist in the administration of LIHEAP benefits⁶. Community based organizations can play a large role in identifying needy households, and helping consumers navigate the process of applying, enrolling, and receiving the LIHEAP benefit.

The size of a household's LIHEAP grant generally depends upon a range of factors, including the level of annual funding provided, household income and the number of household members. It may also depend on housing type, fuel type, fuel prices, weather conditions, or actual energy consumption.

Eligibility for LIHEAP

Eligibility can be categorical, meaning automatic eligibility where at least one person in the household receives other government assistance, such as food stamps (i.e. "SNAP") or Supplemental Security Income (i.e., "SSI").

Eligibility can also be income-based, meaning that the LIHEAP benefit can be received by households where incomes do not exceed either 150 percent of the federal poverty level or 60 percent of the state median income, whichever is greater. However, a state cannot exclude a household from eligibility solely on the basis of income where the household income is less than 110% of the poverty level for the state⁷.

As eligibility guidelines can vary by state, advocates should contact the state agency in charge of the program for specific requirements⁸. The state agency directing LIHEAP could be the Department of Economic and Community Affairs, the Department of Health, Housing, Welfare or Social Services, an Energy Office or an Office of Temporary and Disability Assistance, to name a few. A copy of the official, adopted, State Plan may be available if requested. The State Plan should include a discussion of the individual state's eligibility requirements, benefit levels, estimates of the funds the State will use, and any weatherization or other energy-related home repair provided by the state to low-income households⁹.

Other resources for LIHEAP eligibility and energy assistance information include the state public utility commission, utility consumer advocates, or community based organizations that assist the state in enrolling LIHEAP customers¹⁰. Gas or electric utility companies should also be familiar with LIHEAP eligibility requirements and enrollment procedures.

LIHEAP benefits also may be applied to assist renters¹¹. In some cases, LIHEAP may be able to assist public- and subsidized-housing tenants. For example, if a tenant's heating costs are included in rent paid to a landlord, then LIHEAP payments may be paid directly to the landlord's fuel supplier and credited against the family or individual's rent. However, whether this type of assistance is available to subsidized tenants who pay for heat in their rent, depends on the particular state LIHEAP program. It is not available in many states.

⁶ 42 U.S.C. 8624(b)(6).

⁷ In other words, states can set their income limits as low as 110% of the federal poverty guideline.

⁸ HHS maintains a listing of state LIHEAP offices. See <http://www.acf.hhs.gov/programs/ocs/liheap/grantees/states.html>.

⁹ 42 U.S.C. § 8624(c).

¹⁰ Some states have an Office of Ratepayer Advocate or Office of Consumer Advocate that can assist with utility related issues. In some states, this function may be performed by a unit within the state's Office of Attorney General. Additionally, the National Consumer Law Center publishes a manual, *Access to Utility Service* (5th edition 2011). The manual contains a detailed discussion of LIHEAP, along with many other advocacy issues of concern for practitioners in the arena of utility consumer protection.

¹¹ 42 U.S.C. § 8624(b)(8).

Opportunities for Advocacy

Seniors may require intervention of advocates to ensure that they receive benefits that may be associated with LIHEAP. For example, in some states, financial hardship, as may be demonstrated by a customer's participation in LIHEAP, may qualify customers for special treatment. Many states have a moratorium on service terminations of LIHEAP recipients during some or all of the winter. For various reasons including administrative error, utility companies may incorrectly deem an eligible customer as ineligible for these state protections, and it may require an informed advocate to intercede to correct the utility's misapprehension.

Where utility companies are unresponsive, an advocate may be able to call on the state agency administering LIHEAP for assistance, or contact the state public utility commission for formal or informal action, depending on the time limitations of the problem.¹²

Along with achieving familiarity with the LIHEAP eligibility requirements and enrollment process in the advocate's own state, an advocate can further assist elderly clients by reviewing and providing input on the contents of the State Plan. Each year, the state must resubmit a proposed State Plan as part of a state's annual application to HHS for LIHEAP funds.¹³

For example, states are required to conduct outreach especially to eligible households with elderly or disabled individuals (or both).¹⁴ Advocates should review the State Plan to ensure that such outreach activities are planned and adequate. The State Plan should also contain some discussion of how an applicant for LIHEAP may appeal a negative determination, and reasonable timelines for resolving applicant complaints to the LIHEAP administering agency. Advocates can provide input to ensure that the state's appeal and complaint procedures are accessible to the elderly, and that forms or applications that an elderly applicant may be required to use are provided in a font and a format that is readable.

Through the required public review process, advocates may also be able to submit comments such as what is the appropriate income level to set for LIHEAP eligibility, such that more seniors may be eligible. If the state plans on leveraging activities such as cash assistance payments, weatherization purchases or discounts, advocates can provide comment on whether there is a preferable and more effective method of ensuring that eligible seniors will benefit from these additional activities. For example, is the administration of the additional benefit burdensome to elders, and is it easily understandable and transparent?

If the state plans to contract with community based organizations, advocacy can be undertaken to ensure outreach is relayed through senior centers. Other ways to focus outreach to the elderly may also be addressable during the public comment period.

Additionally, advocates' supplying personal stories from clients, and informed and on-the-record comments at public hearings on the particular needs of the elderly consumer in heating or cooling their households with the LIHEAP benefit, can help inform the annual State Plan.

¹² For example, most requests for assistance with fuel assistance come in the middle of the winter, and a quick resolution is necessary to ensure that the elderly consumer maintains heat without interruption. In such cases, informal resolutions through the advocate's personal contact with utility personnel or state officials can result in the quickest resolution. Filing a formal complaint with the state's Public Utility Commission may make more sense where the complaint is one of many and is evidence of some systemic or institutional injustice, that will take some time to address.

¹³ See 42 U.S.C. § 8624(c)(1) – § 8624(c)(2).

¹⁴ See 42 U.S.C. §§ 8624(b)(5), 8622(4).

¹⁵ 42 U.S.C. § 8624(f).

Regarding advocacy at the federal level, LIHEAP is funded through annual appropriations, and advocates must consistently remain vocal regarding the need to maintain adequate funding to ensure that consumers receive benefits in an amount that will help them maintain heating/cooling throughout the winter and summer months. The LIHEAP Coalition provides free email alerts and updates on LIHEAP funding developments. Advocates may request that they be added to the LIHEAP Coalition distribution list by contacting Shirlon Williams at swilliams@nclc.org. Additionally, the National Fuel Funds Network (NFFN) organizes a biannual LIHEAP Action Day in which advocates from across the nation visit their representatives in Washington D.C. to impress upon legislators the importance of maintaining LIHEAP funding. For more information on NFFN and participating in LIHEAP Action Day, visit <http://www.nationalfuelfunds.org/>.

Financial Considerations for LIHEAP Recipients

LIHEAP benefits are not considered taxable income, and are not income for any purpose under federal or state law. For example, LIHEAP benefits should generally be excluded from a request for household income in applying for other low-income assistance programs.

Enrollment in LIHEAP may automatically qualify LIHEAP recipients for other federal and state assistance programs. For example, one path to eligibility for receiving the federal low-income telephone discounts on service, installation, and initiation of telecommunications service is participation in LIHEAP.¹⁶

Role of Community Action Agency, Social Service Agency

To find out the local fuel assistance agency in your area, go to: <http://liheap.ncat.org/referral.htm> or [call toll-free 1-866-674-6327](tel:1-866-674-6327). LIHEAP requires special outreach to senior households, so many AAAs or other local agencies working with older consumers may be able to provide information about LIHEAP and how to apply for it.

To apply for LIHEAP benefits, the individual or family should contact the local agency that administers the program. This is usually a nonprofit agency, such as the local community based organization, or a state welfare office. Benefits are usually paid directly to the utility company or fuel vendor, and the household's obligation to the utility or fuel supplier is reduced accordingly.

Supplementing LIHEAP with All Available Customer Assistance Programs

Additional assistance may be available from the customer's utility service provider, or government programs at federal, state, and local levels. Common types of assistance beyond LIHEAP are Emergency Assistance through the federal Temporary Assistance for Needy Families (TANF) grant program, utility grants or discounts, weatherization and conservation programs that help make the customer's household more energy efficient, charities such as the Salvation Army and other private organizations.

¹⁶ Link-Up and Lifeline are primarily federally funded programs. Link-Up provides a one-time discount on the installation charge or activation fee for a primary residences' wireline telephone service, or wireless telephone service, respectively. Lifeline provides discounts to a low-income customer's monthly landline telephone or wireless telephone bill. The FCC is in planning stages for considering how to apply these discounts to voice services provided over broadband, as well.

The Public Utility Commission or Public Service Commission in the state in which the consumer lives can be a resource for what types of additional assistance may be available. There may be special rules for senior households. For example, some states provide general termination protections for the elderly during the entire winter; in other states, there may be protections if a winter storm is forecast or the temperature is predicted to fall below a certain level. In some states, tenants (including elderly tenants) may have special protections against utility terminations such as where the landlord fails to pay for the utility service. The tenants may be allowed to make payments directly to the utility and deduct the amount of the payment from rent.

Additional Resources


The National Consumer Law Center (NCLC) publishes “Guide to the Rights of Utility Consumers,” an easy-to-read, consumer-friendly book that helps them understand their rights as utility consumers, including discussions of deposits, payment plans, discount rates, and protections against being terminated. For information about this book, go to:

<http://shop.consumerlaw.org/guidetotherightsofutilityconsumers.aspx>.

NCLC also publishes a much lengthier legal manual, entitled [Access to Utility Service](#) (5th ed. 2011) which provides detailed discussions of customer service and utility termination issues, special utility payment plans and rates for low-income consumers, and federal LIHEAP and weatherization developments. For more information about the book, go to <http://shop.consumerlaw.org/forlawyers.aspx>

Also available on NCLC’s website is related material under “Consumer Concerns for Older Americans: How to Help Older Americans Avoid Loss of Utility Services.”

For additional information on where to turn with questions on utility problems, contact Darlene Wong, Charlie Harak, or John Howat, at NCLC’s Boston office (617 542-8010) or Olivia Wein at NCLC’s Washington, D.C., office (202 452-6252).



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