

# Regional Housing Legal Services

## Issue Brief 11-2: The Case for Moving Weatherization Programs to the Pennsylvania Housing Finance Agency

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Regional Housing Legal Services is a nonprofit law firm with unique expertise in affordable, sustainable housing and its related components — community and economic development, utility matters and preservation of home ownership. RHLS provides innovative project and policy solutions that help create sustainable communities offering decent, safe and affordable housing for lower-income Pennsylvanians.

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## Summary

The Weatherization Assistance Program (WAP) was created under Title IV of the Energy Conservation and Production Act of 1976 with a goal of reducing national energy consumption and the impact of higher fuel costs on low-income families, with an emphasis on those who are elderly or disabled.<sup>1</sup> The Department of Energy (DOE) administers the WAP program on the federal level.

Despite the fact that approximately 52% of those eligible for WAP nationally are renters,<sup>2</sup> the percentage of rental units weatherized using WAP in the early 2000s was less than 30%.<sup>3</sup> The preference for owner-occupied, single-family properties effectively and unnecessarily prevents many of the lowest-income households from accessing WAP services. At the same time, the preference for owner-occupied, single-families properties prevents the program from taking advantage of structural elements of the multifamily industry that would allow it to capture economies of scale.

Ultimately, if coordinated with other energy efficiency programs, WAP has the potential to help jump start an industry which would help stabilize aging housing, reduce energy consumption, and create jobs. Funders and private investors recognized this potential early and have been working to support efforts to ramp up weatherization activities. While real progress has been made, significant coordination obstacles remain.

While WAP has historically focused on owner-occupied single-family properties, the focus is beginning to change. Because Pennsylvania has been one of the early leaders on weatherization of affordable multifamily properties it is an excellent position to advance this work in the coming years. But, in order to fully leverage the currently available resources and position Pennsylvania to be competitive for additional private and public investment which will be needed to scale weatherization in affordable multifamily and bring it to market rate multifamily and single family properties, Pennsylvania will need to align its weatherization resources – both public and private. A significant step the state can take now to align weatherization resources is to transfer administration of the WAP program from DCED to PHFA.

## WAP: Potential and Limitations

WAP provides grants to perform residential retrofit of low-income residences. The retrofit work is designed to help reduce household energy consumption, which helps improve household budgets and decrease the demand for energy. In addition to addressing the individual needs of low-income households and helping to reduce energy demands, WAP could also help lay the foundation needed to scale weatherization work throughout the residential market in the US.

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<sup>1</sup> *History of the Weatherization Assistance Program*, U.S. Dept. of Energy, [http://www1.eere.energy.gov/wip/wap\\_history.html](http://www1.eere.energy.gov/wip/wap_history.html) (last visited Dec. 27, 2011).

<sup>2</sup> Stephen Glatter and Jeanne Engel, *Use of Weatherization Program Funds to Benefit Residents of Multifamily Housing*, Stewards of Affordable Housing for the Future, 1, [http://www.sahfnet.org/files/index\\_56\\_2536597366.pdf](http://www.sahfnet.org/files/index_56_2536597366.pdf) (last visited Dec. 27, 2011).

<sup>3</sup> Calculated using data from *Weatherization Assistance Program Briefing Book*, U.S. Dept. of Energy, VII-1 – VII-10 (Aug. 2008), [http://www.waptac.org/data/files/website\\_docs/briefing\\_book/7\\_accomplishments\\_final.pdf](http://www.waptac.org/data/files/website_docs/briefing_book/7_accomplishments_final.pdf).

There is significant optimism in the field and among funders and investors that residential energy efficiency services could become a significant industry in the US. WAP administrators could choose to operate WAP with an eye toward moving the industry in a direction that resolves some of the ongoing uncertainty and allows for easier coordination of funds. For example, clearly documenting the weatherization measures that create more savings than they cost to implement will open the door for private financing of residential retrofit, which is needed in order for this work to reach a critical mass and add significant jobs to the economy.

There is a real job engine in this work. “A report on a German residential energy efficiency initiative showed more than 140,000 jobs were saved or created in retrofitting 200,000 homes.”<sup>4</sup> In addition -- “DOE estimates that every \$1 million invested in weatherization programs creates 52 low-income community jobs.”<sup>5</sup> Clearly, Pennsylvania would benefit from an increase in jobs.

Weatherization has also been shown to increase property values, which could help to reverse some of the losses from the housing bubble, foreclosures, and increased vacancies. “One report found that rehabilitation efforts increased surrounding home prices by 4 percent....”<sup>6</sup> The key to reaching scale is to attract enough households to achieve economies of scale and integrate with workforce efforts.<sup>7</sup>

Although WAP has been in existence for decades it has not been operated in a way that would facilitate bringing residential weatherization to scale. In fact, it has touched only a relatively small portion of the low-income households who qualify for WAP. Although roughly 34 million households are eligible for WAP improvements, before ARRA, only 100,000 units were retrofitted per year.<sup>8</sup> By 2006, “[a]pproximately 5 million (of nearly 27 million eligible) households ha[d] received weatherization services....”<sup>9</sup> Although there was a spike in weatherization during the ARRA years, plummeting funding for WAP makes it just one of a series of tools that will need to be utilized to provide low-income weatherization services.

Scholars and advocates have identified a variety of reasons why WAP has not reached more households. While the amount of funding allocated to the program is a primary constraint in how many households it can reach, there are a number of formal and informal policies of WAP that contribute to reduced program impact.

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<sup>4</sup> Stockton Williams, *Bringing Home the Benefits of Energy Efficiency to Low-Income Households: The Case for a National Commitment*, Enterprise Community Partners, Inc., 10 (2008), <http://www.practitionerresources.org/cache/documents/663/66381.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 9

<sup>7</sup> Alexis Rourk, *Retrofit Bedford Stuyvesant, Block by Block: 2009-2010 Pilot Summary Report*, Pratt Center for Community Development, 11 (Nov. 15, 2010), [http://prattcenter.net/sites/default/files/publications/PrattCenterRetrofitBedStuyReport\\_0.pdf](http://prattcenter.net/sites/default/files/publications/PrattCenterRetrofitBedStuyReport_0.pdf).

<sup>8</sup> Lori Bamberger, *Scaling the Nationwide Energy Retrofit of Affordable Multifamily Housing: Innovations and Policy Recommendations*, Urban Institute, 11 (Dec. 1, 2010), <http://www.urban.org/UploadedPDF/1001482-Multifamily-Housing.pdf>.

<sup>9</sup> Kenneth Gillingham, Richard Newell, and Karen Palmer, *Energy Efficiency Policies: A Retrospective Examination*, *Annu. Rev. Environ. Resour.* 2006. 31:161–92, 180, <http://www.nicholas.duke.edu/people/faculty/newell/GillinghamNewellPalmerAREREE.pdf>.

## Poor Coordination Among Agencies

Poor coordination among lead departments and agencies is a significant obstacle to full utilization of WAP funding.<sup>10</sup> Shared responsibility among Housing and Urban Development (HUD), Department of Energy (DOE), Department of Treasury, state housing finance and energy agencies, and local utilities has resulted in conflicting regulatory requirements, implementation difficulties, and unintentionally adverse incentives.<sup>11</sup>

## Focus on Owner-Occupied, Single-Family Homes

One significant obstacle to scaling weatherization is WAP's historic focus on owner occupied single-family homes. Multi-family units weatherized using WAP comprised only about 18%<sup>12</sup> of the properties weatherized, even though [o]ver 30% of the U.S. population and over 25% of U.S. households live in multifamily buildings."<sup>13</sup> A similar mismatch exists when you look at renter occupied properties (which may be single-family or multi-family). Despite the fact that approximately 52% of those eligible for WAP nationally are renters,<sup>14</sup> the percentage of rental units weatherized using WAP in the early 2000s was less than 30%.<sup>15</sup>

By focusing on owner-occupied, single family homes, the WAP program has been unable to identify and take advantage of economies of scale that can result from multifamily retrofit work. Not only does the actual retrofit work stand to benefit from the economies of scale that come from multifamily properties, but the work needed to perform outreach, intake, education, and determine appropriate measures has to take place for each homeowner each time. Working in a multifamily building, that set of administrative work needs to be performed once for an entire building, which may include dozens of units. In addition, where the multifamily building is also affordable, there are a relatively small number of owners of affordable multifamily buildings, so doing that administrative work once may greatly speed the work at another property owned or managed by the same organization.

From an administrative perspective, a focus on federally subsidized multifamily housing seems the most scalable of residential building segments, because we need to convert far fewer owners (33,614), and merely one subsidy provider, to accomplish efficiencies in upwards of 3.5 million homes. Together with the Low Income Housing Tax Credit (LIHTC) subsidized portfolio, the federal government touches nearly 20 percent of all multifamily units.<sup>16</sup>

Recently, the Department of Energy (DOE) has taken steps that indicate a new level of support for affordable multifamily weatherization -- promulgating a rule intended to streamline the weatherization process for residents in public housing units, privately-owned, federally-assisted

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<sup>10</sup> Bamberger, *supra* note 8, at 17.

<sup>11</sup> *See id.*

<sup>12</sup> Calculated using data from *Weatherization Assistance Program Briefing Book*, *supra* note 3.

<sup>13</sup> *U.S. Multifamily Energy Efficiency Potential By 2020*, Benningfield Group, Inc., 3 (Oct. 27, 2009), [http://www.benningfieldgroup.com/docs/Final\\_MF\\_EE\\_Potential\\_Report\\_Oct\\_2009\\_v2.pdf](http://www.benningfieldgroup.com/docs/Final_MF_EE_Potential_Report_Oct_2009_v2.pdf).

<sup>14</sup> Glatter and Engel, *supra* note 2 at 1.

<sup>15</sup> Calculated using data from *Weatherization Assistance Program Briefing Book*, *supra* note 3.

<sup>16</sup> Bamberger, *supra* note 8, at 3.

units, and units financed with Low Income Housing Tax Credits (LIHTC)<sup>17</sup> and prohibiting state WAP plans from excluding affordable multifamily properties.<sup>18</sup> Despite these encouraging changes, the history of focus on owner-occupied single family properties has created a practical and regulatory landscape that presents challenges to multifamily retrofit.

### *Failure to Standardize Work and Document Savings*

The theory advanced by weatherization advocates is that weatherization can produce more energy savings than it costs to perform the weatherization work. If this is true it makes sense for property owners to invest in weatherization. However, the industry is new and fragmented enough that there are no clear standards for weatherization work that apply to all providers. So, it can be difficult to be sure you are getting the most effective weatherization measures. In addition, there is not yet enough evidence to demonstrate that actual energy savings are greater than the cost of the measures in most cases. In order to induce a critical mass of property owners to invest in weatherization work both questions must be clearly answered. In addition, since many property owners will not be able to afford the upfront costs of the weatherization measures, the evidence for standardization and energy savings must be adequate to induce lenders or other private investment in the field.

### WAP & Smart Rehab in Pennsylvania

In Pennsylvania, DCED's Office of Energy Conservation and Weatherization administers WAP. A network of public and non-profit agencies provides weatherization services to all sixty-seven counties in the Commonwealth.<sup>19</sup> As is true nationally, the focus of WAP in PA has been on owner-occupied, single-family properties.

In 2009, PHFA took steps to increase the number of affordable multifamily properties receiving weatherization by establishing the Preservation through Smart Rehab Program (Smart Rehab). As the state allocating agency for the Low-Income Housing Tax Credit (LIHTC) program in Pennsylvania, PHFA is intimately familiar with and vested in the preservation of affordable multifamily properties. Smart Rehab was seen as a way to reduce operating costs and promote the long-term financial stability of those properties. PHFA's initial funding included a \$1 million grant from the MacArthur Foundation, \$2 million from its own reserves, and a \$2 million loan from the U.S. Department of Agriculture.<sup>20</sup> When the ARRA funds were announced, PHFA also took the needed steps to become a WAP subgrantee.

DCED was a diligent and visionary partner, supporting PHFA's efforts to extend WAP funding to affordable multifamily properties. But, there were administrative challenges that PHFA had to

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<sup>17</sup> 10 C.F.R. § 440.22 (effective Feb. 24, 2010).

<sup>18</sup> Weatherization Program Notice 11-3, Dept. of Energy, (Dec. 22, 2010) [http://waptac.org/data/files/website\\_docs/government/guidance/2011/wpn%2011-4\\_20110926t200809.pdf](http://waptac.org/data/files/website_docs/government/guidance/2011/wpn%2011-4_20110926t200809.pdf).

<sup>19</sup> *Weatherization Assistance Program Guidelines*, Pa. Dept. of Cmty. & Econ. Dev., 1 (Oct. 12, 2010) [http://www.newpa.com/webfm\\_send/1441](http://www.newpa.com/webfm_send/1441).

<sup>20</sup> Preservation Through Smart Rehab (Application to National Council of State Housing Agencies), Pennsylvania Housing Finance Agency, 2, [http://www.ncsha.org/system/files/PA\\_REN\\_Preservation.pdf](http://www.ncsha.org/system/files/PA_REN_Preservation.pdf) (last accessed Dec. 27, 2011).

contend with due to DOE's regulations, some challenges in DCED's administrative processes, and a national history of WAP focused on single-family homes.

PHFA's experience as a subgrantee reflects some of the difficulties in the current system in Pennsylvania. There were many months of delay in receiving the actual funding. This experience was not isolated to PHFA, because of a cumbersome regulatory environment, it is quite common for WAP subgrantees to have to wait months for funding – effectively being forced to bridge the gap and start work before they have received funding. Additional obstacles were a result of DOE regulations, including a historic focus on single-family properties. For example, Pennsylvania did not have enough qualified/certified energy auditors for multifamily projects.<sup>21</sup> PHFA had to act quickly to address the lack of qualified/certified energy auditors. It did that by working to expand the qualified contractor pool.<sup>22</sup>

Other issues included owner contribution requirements, the restriction on making loans with WAP funding, and the requirement that PHFA directly contract with the weatherization providers. These issues may make sense in an owner-occupied scenario, but are impractical in the affordable multifamily setting. These issues and others have the effect of discouraging participation by otherwise interested owners of affordable multifamily properties. PHFA spent a significant amount of time working with both DCED and DOE on these issues.

While PHFA was able to work with DCED on a waiver program for owners unable to meet investment requirements, it took many months to come to a final determination on the contractor payment process. In the single-family world, subgrantees hire and pay contractors. While this model may work well for low-income homeowners, it is not the most efficient way to deal with multi-family properties that are owned/managed by sophisticated developers or non-profit organizations. Most multifamily property owners are more than capable of selecting and supervision contractors. Unfortunately, PHFA was not able to get a change on this issue, nor was it able to secure permission from DOE to use WAP funds as loans instead of grants.

### [WAP After ARRA; Moving WAP to PHFA Will Improve Outcomes](#)

While there has been early attention by funders and investors to the potential in the residential retrofit market, the necessary conditions for significant investment do not yet exist. Some funders and investors are starting to sour on the idea that the conditions can be produced in the near term. Pennsylvania has made more progress toward this goal than many other states and is positioned to make significant strides in the next two years. However, in order to ensure Pennsylvania is a good candidate for investment, the state and its agencies must act quickly and decisively to remove the obstacles to scaling this work that it does control and remain a vigilant advocate on the issues which others control.

### *Improving Coordination*

One of the known difficulties with WAP is the number of agencies involved and the poor coordination among them. Moving WAP to PHFA reduces the number of agencies in the system

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<sup>21</sup> Glatter and Engel, *supra* note 2, at 9.

<sup>22</sup> *Id.*

in Pennsylvania by one. Any efforts to weatherize affordable multi-family properties in Pennsylvania will most likely have to involve PHFA at some level. If PHFA is responsible for WAP in addition to its housing programs it will be able to integrate those programs much more than would be possible if another agency were running WAP.

PHFA could also create a formalized process for the WAP agencies to share resources, exchange information, and collaborate on solutions to common challenges. This process could also facilitate open discussion during the transition from DCED to PHFA. Based on our conversations with PHFA, we expect that PHFA would seek to keep the funding formula from the ARRA years in place during the transition. This funding formula will ensure a level of predictability for WAP providers while also maintaining the increased focus on weatherization of multifamily properties.

PHFA will also be able to process contracts and payments on an expedited basis. DCED typically takes four months to provide contracts under WAP and six weeks to process payments.<sup>23</sup> Under PHFA administration, the timeframe should change to 30 days for contracts and 10 days for payment processing. This increased efficiency will help improve WAP outcomes and reduce risk and administrative costs for WAP providers.

In addition, PHFA could also take advantage of the realignment of programs to integrate housing and weatherization activities. For example, New York State's DHCR capitalizes on the efficiency of consolidated management to better coordinate resources for housing development and weatherization. It has integrated WAP with its housing rehabilitation programs by requiring housing rehabilitation subrecipients to conduct energy audits and WAP subgrantees to work closely with local housing agencies to provide technical support and use housing programs as sources of leverage.<sup>24</sup>

### *Addressing Regulatory Barriers*

Another major issue with WAP, especially with regard to multi-family weatherization, is the regulatory infrastructure designed for single-family properties. Regulatory revisions will be required in order to effectively extend WAP to affordable-multifamily properties at a large scale.

PHFA, acting as the state's WAP agency, will have more access and power to educate and advocate with DOE on the realities of multi-family affordable housing operations. PHFA's expertise could be extremely helpful in guiding DOE toward rational policies for weatherization of affordable multi-family properties, helping to eliminate issues such as the grant v. loan issue, owner contribution waivers, adverse incentives, and the requirement that subgrantees disburse funds to contractors.

### *Attracting Private Investment; Leveraging Additional Funding*

PHFA, through Smart Rehab, has demonstrated its ability to bring in outside funding to leverage the WAP funds, to drive consistent data collection, facilitate training of workers to fill a new

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<sup>23</sup> Information from an interview with a Pennsylvania WAP provider.

<sup>24</sup> *Weatherization Assistance Program State Plan 2010*, N.Y. State Div. of Hous. and Cmty. Renewal, 21 (2010) [http://www.dhcr.state.ny.us/Publications/WeatherizationPlan10/Weath\\_StatePlan\\_2010.pdf](http://www.dhcr.state.ny.us/Publications/WeatherizationPlan10/Weath_StatePlan_2010.pdf).

need, and partner with allied organizations and advocates. In addition to the fact that PHFA was able to secure foundation funding and bring some of its own resources to the table to make Smart Rehab work, it has also been taking the lead in making tangible on-the-ground changes that are needed to facilitate additional private investment. PHFA could expand the impact of WAP by supplementing WAP funding with additional private or public sources. Additional resources will be critical in the future as WAP agencies are faced with significant funding reductions.

PHFA has taken the lead on establishing a standard data collection tool which all Smart Rehab recipients must use. This system allows owners and program managers to track the actual energy savings from the retrofit work. The collection of reliable data is considered by many to be a serious obstacle to private investment. Private investors are generally uncomfortable with the estimates about savings from weatherization – largely because there is no standard for auditors (who predict savings) and actual savings data is collected infrequently, if at all. Smart Rehab requires all properties to provide energy usage data for a year before the project and for at least a year after the weatherization work takes place.

PHFA worked hard to quickly train auditors to be able to address the needs specific to multifamily buildings – creating a talent pool that did not previously exist.

In addition, PHFA is a partner with the major weatherization collaboratives in Pennsylvania and is working closely with national advocates who are working in Pennsylvania to identify opportunities to coordinate with utility weatherization work.

## Conclusion

WAP is an important and established source of funding for weatherization for low-income households in Pennsylvania. The historic focus on single-family properties and the variety of agencies involved in WAP has hindered its effectiveness in reaching multi-family properties. Pennsylvania has taken an early lead and made significant investments in expanding WAP to affordable multifamily properties. By focusing on weatherizing affordable multifamily properties, Pennsylvania can create the conditions needed to jumpstart an industry that would provide weatherization services to tens of thousands of residences – increasing their home values and comfort and saving them money, while also creating thousands of new jobs for Pennsylvanians.

PHFA is best positioned to move WAP forward in Pennsylvania in a way that will jumpstart this market, bringing savings to households across the state and reducing unemployment.