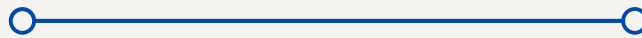


The Low Income Home Energy Assistance Program (LIHEAP)

Pennsylvania Advocates Manual 2021-2022 Edition



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Preface

We are pleased to provide you with the 2021-2022 electronic edition of ***The Low Income Home Energy Assistance Program (LIHEAP) Pennsylvania Advocates Manual***. The manual is developed and produced by the Pennsylvania Utility Law Project (PULP) for use by members of the Pennsylvania Legal Aid Network and others who assist low income individuals. We hope that you find it to be of value to you and the members of your staff. Please feel free to copy as needed, circulate, and maintain a copy in your reference library.

The updated 2021-2022 Manual is different from earlier editions circulated in prior years. Please replace any older version. This year's edition reflects program changes, current forms, references, website links, as well as additional issues and advocacy suggestions pertaining to the COVID-19 pandemic. The footnotes contain citations to the 21-22 LIHEAP State Plan¹ and relevant legal authority for your reference. In the Appendices, you will find contact lists and resources to assist in your advocacy.

The different aspects and components of LIHEAP often change from year to year and can be confusing to advocates and applicants. Many eligible consumers do not apply, and those who do apply often receive less than their full potential benefits. We intend this Manual to be a working reference that aids understanding of and access to the benefits provided by Pennsylvania's LIHEAP. We value and request your input regarding the success of the Manual in meeting your needs and welcome any suggestions for modification.

¹ All references to the State Plan in this manual refer to the Final 2021-2022 State Plan. PA. DEP'T OF HUMAN SERVICES, LIHEAP STATE PLAN (FY 2021-2022) (hereinafter 21-22 LIHEAP STATE PLAN), *available at* [https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance LIHEAP/2022%20LIHEAP%20State%20Plan_FINAL%20Approved.pdf](https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance%20LIHEAP/2022%20LIHEAP%20State%20Plan_FINAL%20Approved.pdf).

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Grant Amounts:⁸**CASH**

- o Minimum Cash grant will be \$500.
- o Maximum Cash grant will be \$1,500.

CRISIS

- o Minimum Crisis grant will be \$25.
- o Maximum Crisis grant will be \$1,200.

Changes to LIHEAP in 2021-2022

Bar-Coded Preseason Applications and Compass Postcards: Preseason mailings to households are done in three equal phases depending on their approved program request date from the previous program year. Households that receive a preseason mailing will have a unique COMPASS registration number that, along with the social security number of the payment name, enables them to apply for LIHEAP on COMPASS or the myCOMPASS PA mobile app. The registration number can only be used to submit one application. Households residing in Bradford, Columbia, Cumberland, Lancaster, Pike, Susquehanna, Tioga, Washington and Wayne counties who do not wish to apply on COMPASS can receive a preseason paper application from either the LIHEAP Helpline at 1-866-857-7092 or their CAO.⁹ For all other households that wish to have a paper application instead must wait until October 18, 2021 to apply.

Cash and Crisis Grant Maximums: The maximum Cash and Crisis grant amounts have substantially increased for the LIHEAP 2021-2022 program year as a result of additional supplemental LIHEAP funding appropriated through the federal American Rescue Plan Act.¹⁰

The maximum LIHEAP Cash grant has increased to \$1,500.¹¹ The maximum Crisis grant has increased to \$1,200 dollars.¹²

Election of Cash and Crisis Grants:¹³ If Cash and Crisis benefits are authorized on the same day, vendors no longer have the option to request Crisis instead of using the Cash benefit.¹⁴ The Cash

⁸ 21-22 LIHEAP STATE PLAN at v - vi.

⁹ DHS Operations Memorandum 21-09-03, September 17, 2021.

¹⁰ American Rescue Plan Act of 2021, HR 1319, Title II, Part 2, Subtitle K, § 2911, <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>.

¹¹ 21-22 LIHEAP STATE PLAN at vii-viii.

¹² Id.

¹³ See PA. DEP'T OF HUMAN SERVICES, LIHEAP HANDBOOK §609.33 and §619.7.

¹⁴ DHS Operations Memorandum 09-17-21, September 17, 2021.

benefit must be used first for resolution of the crisis. If the amount required to resolve the crisis is more than the Cash benefit amount, a Crisis should also be authorized.¹⁵

Note that a household may receive more than one Crisis benefit, up to the maximum Crisis amount.

Verification of Household Income: The temporary COVID-19 verification policies requirements for accepting client statement as verification of income termination and household composition are no longer in place.¹⁶ However, case workers are still required to help applicants to verify information through a third party (“collateral contact”) if the applicant is not able to provide the required documentation and requests assistance.¹⁷

Countable Income:¹⁸ Federal Pandemic Unemployment Compensation income and Hazard Pay are still considered countable income. Federal stimulus payments, Lost Wages Assistance and 2021 Advance Child Tax Credit payments are all excluded income for LIHEAP.

Heat and Eat Initiative:¹⁹ To enhance participation and benefits for households enrolled in the Supplemental Nutrition Assistance Program (SNAP), and in accordance with federal requirements, DHS will issue a heating assistance benefit to SNAP households that are responsible for heating costs and have not already been approved for LIHEAP during the current program year. SNAP applicants or recipients who are homeless or living in institutions are not eligible to receive the heating assistance benefit. Per federal SNAP regulation, receipt of a heating assistance benefit enables SNAP recipients to maximize the SNAP Standard Utility Allowance (SUA). Households receiving the heating assistance benefit that are recipients of SNAP will receive the highest SNAP SUA for the current federal fiscal year.

¹⁵ Id.

¹⁶ DHS Operations Memorandum 21-09-03, September 17, 2021; 21-22 LIHEAP STATE PLAN at v.

¹⁷ 21-22 LIHEAP STATE PLAN at v, and § 601.104.

¹⁸ DHS Operations Memorandum 09-17-21, September 17, 2021.

¹⁹ 21-22 LIHEAP STATE PLAN at x.

LIHEAP: PA Advocates Manual 2021-2022 Edition
Prepared by the Pennsylvania Utility Law Project

Introduction

This Manual is produced by the Pennsylvania Utility Law Project (PULP) for members of the Pennsylvania Legal Aid Network and others who assist low income individuals. It is intended as a general reference guide and is not intended to be a substitute for direct legal advice in individual cases. The footnotes contain citations for your reference. The Appendices contain additional resources and contact information. Website references can be found throughout. The authors welcome your questions and comments on this manual.

LIHEAP in Brief

The Low Income Home Energy Assistance Program (LIHEAP) provides low income households with assistance to help pay the costs of home energy consumption. In Pennsylvania, LIHEAP grants are intended primarily to assist with paying the cost of heating a residence during the cold weather months.

LIHEAP is funded by the Federal Government through a block grant administered by the states. In Pennsylvania, the Department of Human Services (DHS) administers the LIHEAP program through local County Assistance Offices and other agencies.

Assistance through the 2021-2022 LIHEAP season can take three different forms. A particular household may be eligible for more than one of these different forms of assistance, and advocates should consider each LIHEAP component for every household:

- **Cash Component**: a single grant, to assist a household in meeting heating costs. It is paid directly to either a heating fuel vendor/utility company or paid to an individual. The amount of the LIHEAP Cash grant to the household differs depending on various factors at the time of application including household size and income.²⁰ The set formula for the grant amount is discussed below. This year, all households may apply for the LIHEAP Cash component from October 18, 2021 until May 6, 2022.²¹ The grant amount will range from a minimum of \$500 to a maximum of \$1,500.²²
- **Crisis Component**: grants of up to \$1,200 will be available to help qualified households resolve a home heating crisis caused by a lack of heating-related utility service, a pending utility termination notice, an actual or imminent (less than 15 days of fuel) lack of a deliverable fuel (such as home heating oil, propane, etc.), or a problem with a heating system (i.e., furnace),

²⁰21-22 LIHEAP STATE PLAN at app. B § 601.41.

²¹ *Id.* at iii.

²² *Id.* at v-vi.

or a weather-related event.²³ Any household requiring less than \$25 to resolve a home heating emergency will not be eligible to receive a Crisis grant.²⁴

- Crisis Interface/Weatherization Assistance Component:²⁵ provides for the repair or replacement of the heating system or furnace for households with a heating system breakdown. Traditional weatherization and conservation services may supplement the repairs.²⁶

The same application form may be used to apply for each of the LIHEAP components.

An individual may be able to designate a different vendor to receive different types of grant payments; for example, a Cash grant may be designated to an oil vendor and a Crisis grant to the electricity provider.

An individual may receive more than one Crisis benefit during the program year, subject to the minimum and maximum Crisis grant amount allowed and the amount of available federal funding.²⁷

LIHEAP is available to both renters and homeowners.²⁸ Renters who pay for heat for their residence indirectly (rather than directly to a fuel vendor or utility) as a part of rent will receive only 50% of the Cash benefit for which they would otherwise be eligible.²⁹ This benefit is **not** available to renters who pay for their heat indirectly **and** whose rent is based on a percentage of the household income. The LIHEAP State Plan says that these households do not have home heating responsibility and, thus, are not eligible for LIHEAP Cash grants. There are, however, circumstances where they would be eligible for LIHEAP Crisis grants. Specifically, if they pay for a secondary heating source directly (typically, electricity) and that heating source is needed to run their primary heating source.

Eligible households may reapply for and receive Cash and Crisis assistance each program year.

No lien will attach to a home as a result of receiving any LIHEAP assistance.

²³ 21-22 LIHEAP STATE PLAN, at app. B § 601.62.

²⁴ See 21-22 LIHEAP STATE PLAN, at viii.

²⁵ This component is the only component not administered completely within DHS. DHS makes the Crisis eligibility determination, but the Department of Community and Economic Development (DCED) administers the repair and replacement segment. See 21-22 LIHEAP STATE PLAN, at app. C § I.

²⁶ See *id.*

²⁷ 21-22 LIHEAP STATE PLAN, at app. B § 601.63.

²⁸ See *id.* at app. B § 601.3.

²⁹ *Id.* at app. B § 601.42.

Resources and Authority

DHS maintains a Heating Assistance/LIHEAP website.³⁰

Every year, DHS must update the LIHEAP State Plan³¹ with program guidelines and parameters, such as program opening and closing dates, funding levels, and eligibility criteria. DHS publishes a Proposed State Plan during the summer months which is subject to public comments and public hearings in which anyone may participate. After comments are received and reviewed, DHS publishes a Final State Plan that governs the LIHEAP operation for that program year. The LIHEAP Cash and Crisis rules for the program year are found in Appendix B of the Final State Plan. Information regarding Crisis Interface and the Weatherization Assistance Program may be found in Appendix C of the Final Plan. The current State Plan is found online at this link.³²



Advocacy Tip: Advocates should use rules found in Appendix B of the 21-22 LIHEAP STATE PLAN when making arguments to County Assistance Offices and LIHEAP administrators, as these are the most up to date.

DHS also provides a LIHEAP Policy Handbook for its caseworkers. The Handbook includes Operations Memoranda which are issued periodically, and which indicate the most recent LIHEAP procedures and policies. The most recent publicly available Handbook is found online at: <http://services.dpw.state.pa.us/oimpolicymanuals/liheap/index.htm>.

The 2021-2022 Cash grant benefit tables, which indicate the amount of the Cash grant to which each household is entitled, may be found online at:

https://www.humanservices.state.pa.us/LIHEAP_BENEFIT_TABLE/.

A LIHEAP application may be completed online through the COMPASS program at www.compass.state.pa.us, or a paper application may be mailed or hand delivered to the local County Assistance Office.³³ Social service providers and others can request LIHEAP flyers and blank paper applications in English and Spanish.

³⁰ The LIHEAP website address is: <https://www.dhs.pa.gov/Services/Assistance/Pages/LIHEAP.aspx>

³¹ The link address for the 2021-2022 LIHEAP State Plan is: https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance_LIHEAP/2022%20LIHEAP%20State%20Plan_FINAL%20Approved.pdf

³² *Id.*

³³ 21-22 LIHEAP STATE PLAN at app. B §§ 601.21, 601.22.

Application assistance is available.³⁴ Upon request, LIHEAP staff will mail an application form or take other steps such as referral to other agencies that make home visits to help homebound persons apply for LIHEAP benefits.³⁵

Applicants may get an automated eligibility determination if they apply on COMPASS and the applicant's income is already known to DHS because they receive other benefits, such as SNAP (food stamps), medical assistance, or TANF (cash).³⁶ Even with automated eligibility, applicants may still have to verify their home heating responsibility.³⁷

The English version of the paper application may be downloaded from the DHS website at: [https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance LIHEAP/HSEA %201%206-21.pdf](https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance%20LIHEAP/HSEA%201%206-21.pdf).

The Spanish version of the paper application may be downloaded from the DHS website at: <https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance LIHEAP/HSEA %201-S%206-21.pdf>. They are also appended to this manual at Appendix B.

The addresses and phone numbers of local County Assistance Offices can be found online at: <https://www.dhs.pa.gov/Services/Assistance/Pages/CAO-Contact.aspx>. Also, appended to this manual as Appendix D is a list of the LIHEAP Supervisors for each county.

Legal Authority

LIHEAP is a Federal block grant program through the U.S. Department of Health and Human Services.³⁸ It is authorized by the Low Income Home Energy Assistance Act (Pub. L. 97- 35, 42 U.S.C.A. §§8621-8629) as amended by the Human Services Reauthorization Act (Pub. L. 98-558, 98 Stat. 2878), the Human Services Reauthorization Act of 1986 (Pub. L. 99-425, 100 Stat. 966), the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101-501), the National Institutes of Health Revitalization Act of 1993 (Pub. L. 103-43), the Low Income Home Energy Assistance Amendments of 1994 (Pub. L. 103-252), the Coats Human Services Reauthorization Act of 1998 (Pub. L. 105-285), and the Energy Policy Act of 2005 (Pub. L. 109-58).³⁹

³⁴ See *id* at app. B § 601.24.

³⁵ *Id.*

³⁶ *Id.* at app. B § 601.22.

³⁷ See *id.*

³⁸ The U.S. Department of Health and Human Services website page dedicated to LIHEAP can be found at: <http://www.acf.hhs.gov/programs/ocs/programs/liheap>.

³⁹ 21-22 LIHEAP STATE PLAN, at app. B § 601.1.

While Federal law forms the legislative basis for the LIHEAP program, the annual State Plan contains the policies governing implementation of the program each year. The State Plan includes Program Updates, DHS/DCED Crisis Interface, Assurances, and three appendices with rules governing the LIHEAP programs.

Advocates should pay special attention to LIHEAP State Plan “Appendix B – Determination of Eligibility for LIHEAP Cash and Crisis Benefits.” This section of the Plan provides guidelines for the Cash and Crisis grants, which are the most accessed components of LIHEAP.

“Appendix C - Weatherization Assistance Program” contains information concerning both the Crisis Interface Program as well as the Department of Community and Economic Development (DCED) administered weatherization programs.

Administration

The Department of Human Services administers LIHEAP in Pennsylvania.⁴⁰

Cash Grants: For the most part, DHS uses the County Assistance Office (CAO) as the administering agency for the Cash grant.⁴¹ DHS coordinates the activities of several counties, and the State Processing Center typically processes LIHEAP applications for several counties.

Crisis Grants: DHS uses several different agencies to assist in the delivery of the Crisis program.⁴² These agencies include CAOs, community action agencies, the Department of Community and Economic Development, and other local organizations.

Crisis Interface: DHS and the Department of Community and Economic Development (DCED) jointly administer the Crisis Interface/Weatherization Assistance component.⁴³ DHS makes the Crisis eligibility determination, and DCED administers the heating system repairs, furnace replacements where warranted, and any appropriate weatherization treatments.⁴⁴

County staff members administering LIHEAP may not always be fully aware of the details of the current year’s program. LIHEAP is only one of many programs the CAOs implement; it is available only part of the year; and its operations and guidelines are often modified within the course of a single year. In addition, many of the CAOs hire temporary energy assistance workers to staff the LIHEAP program, and these workers often become familiar with program guidelines

⁴⁰ 21-22 LIHEAP STATE PLAN at i.

⁴¹ *Id* at app. B § 601.5.

⁴² *See id.*

⁴³ *Id* at. app. C § I.

⁴⁴ *See id.*

at the same time the first applicants enter the system. Application delays beyond the mandated 30-day determination period are therefore not surprising.



Advocacy Tip: Although DHS has modified its training and monitoring process to expedite the processing of applications, advocates should encourage individuals to apply for Cash grants early in order to reduce any negative effect on applicants as a result of processing delays.

In the 21-22 Plan, DHS anticipates receiving \$200 million through the regular budget, which is supplemented this year with an additional \$250 million in funding from the American Rescue Plan Act of 2021.⁴⁵ DHS anticipates carrying forward no balance from FY 2021. This results in a total anticipated budget of \$450 million. Approximately \$337.5 million will be allocated to LIHEAP benefits.

An appeal process is available for individuals to challenge CAO decisions or failures to act on LIHEAP applications.⁴⁶ A Fair Hearing can be requested through the local LIHEAP office.⁴⁷ Individuals have 30 days to file an appeal with their local CAO in a process that is further detailed in the “Appeals” section of this manual.⁴⁸

Timetable

In 2021-2022, DHS’s opening date for both the Cash and Crisis components, including Crisis Interface, is October 18, 2021 with a closing date estimated to be May 6, 2022.⁴⁹

The length of the program is dependent on the availability of funds as the program year progresses, so DHS may shorten or extend the closing date.⁵⁰ The program is opening earlier and has an extended season close date to better meet the needs of the community due to the impact of the COVID-19 pandemic.

General Eligibility

To qualify for and receive Cash or Crisis benefits, an individual must meet several eligibility requirements: household income, home heating responsibility, Pennsylvania residency, and immigration status.⁵¹ Crisis eligibility additionally requires that there be an actual or imminent

⁴⁵ 21-22 LIHEAP STATE PLAN at ii.

⁴⁶ 21-22 LIHEAP STATE PLAN AT app. B § 601.123.

⁴⁷ See *id.*

⁴⁸ See 55 PA. CODE § 275.3(b)(1) (1981); PA. DEP’T OF HUMAN SERVICES, SUPPLEMENTAL HANDBOOK § 870.12 (Sept. 27, 2012), <http://services.dpw.state.pa.us/oimpolicymanuals/supp/index.htm>.

⁴⁹ 21-22 LIHEAP STATE PLAN AT iii.

⁵⁰ 21-22 LIHEAP STATE PLAN, AT app. B § 601.6(b).

⁵¹ See *id.* at app. B § 601.31.

home heating emergency that will be resolved through receipt of grants, or in the case of the Crisis Interface program, through the repair or replacement of home heating equipment.⁵²

Household Income

For 2021-2022, Pennsylvania has set the income eligibility level for both Cash and Crisis at 150% of the 2021 Federal Poverty Guidelines.⁵³ The income eligibility level for the Crisis Interface program is 150% of the Federal Poverty Income Guidelines.⁵⁴ However, the income eligibility level for the Weatherization Assistance Program is 200% of the 2021 Federal Poverty Income Guidelines.⁵⁵ Income eligibility levels for the 2021-2022 LIHEAP program year can be found in Appendix A of this Manual or DHS eligibility charts.⁵⁶

Income Calculation

Gross annual income is used to determine both a household's eligibility and Cash grant amount.⁵⁷

The applicant is given the discretion to choose between two time periods to be used in calculating their gross annual income. The **applicant may choose** to: (1) use their income from the previous 12 months or (2) use their income from the calendar month immediately prior to the date of the application, multiplied by 12 (monthly amounts are converted to a yearly figure).⁵⁸



Advocacy Tip: Advocates should help the applicant determine which time frame (12 months or past calendar month) yields the income level most advantageous for the household.

In some cases, the selection of the time frame to be used, as well as the timing of the Cash grant application, may help lead to a determination of eligibility and can result in significantly different benefit amounts.

Income for recipients of SNAP, Cash, or Medical benefits from DHS will be annualized based on the gross income on DHS's Client Information System. Applicants in this situation who will have a lower income based on the previous month's income can ask the CAO to use monthly income if the system automatically calculates a benefit amount and the applicant believes that it should be a higher amount because of lower income based on a different method.⁵⁹

⁵² See *id.* at app. B § 601.32 (details regarding the specific eligibility requirements for Crisis grants).

⁵³ *Id.* at app. B § 601.31(1).

⁵⁴ 21-22 LIHEAP STATE PLAN, at 2.

⁵⁵ *Id.*

⁵⁶ PA. DEP'T OF HUMAN SERVICES, LIHEAP ELIGIBILITY INCOME CHART (2021-2022), [http://services.dpw.state.pa.us/oimpolicymanuals/liheap/index.htm#t=650 Income%20Appendix A.htm](http://services.dpw.state.pa.us/oimpolicymanuals/liheap/index.htm#t=650%20Income%20Appendix%20A.htm).

⁵⁷ See 19-20 LIHEAP STATE PLAN at app. B §§ 601.81 – 84.

⁵⁸ See *id.* at app. B § 601.83(a).

⁵⁹ *Id.*

Household Size

For the purposes of LIHEAP, a household is defined as an individual or a group of individuals, including related roomers,⁶⁰ who live together as one economic unit and customarily pay for home heating energy.⁶¹ However, an individual who has previously received a LIHEAP cash benefit as a member of another household during the program year is not included in the household size.⁶² Neither are temporary visitors, institutional residents, individuals who do not meet the immigration requirements, or individuals who are currently incarcerated or considered a fleeing felon.⁶³

Note: Certain individuals do not count for purposes of household size (i.e., fleeing felons, ineligible immigration status, etc.) but their income does count for the purposes of determining eligibility which may result in a household placing higher on the FPL scale, resulting in a lower grant amount.

Whose Income Counts?

Income level for an applicant household includes the gross annual income from **all** the following people:

- all household members, including noncitizens who do not qualify for LIHEAP benefits⁶⁴
- a roomer related by blood, marriage, or adoption to a household member,⁶⁵ and
- a person living with the applicant who, as a member of another household, has already received a LIHEAP Cash or Crisis grant during the present program year.⁶⁶

Gross income is the total earned and unearned income of the household, including:

- employee earnings,
- profit from self-employment,

⁶⁰ 21-22 LIHEAP STATE PLAN at app. B §§ 601.31 and 601.81. Note that unrelated roomers are treated as a separate household and may qualify for LIHEAP assistance separately – provided the other eligibility requirements (such as home heating responsibility) are met.

⁶¹ 21-22 LIHEAP STATE PLAN, at app. B § 601.31.

⁶² *Id.* at app. B § 601.41.

⁶³ *See id.*

⁶⁴ Same sex marriage became legal in the Commonwealth of Pennsylvania on May 20, 2014, when a decision rendered by the United States District Court for the Middle District of Pennsylvania struck down Pennsylvania’s 1996 law banning the recognition of same gender marriage as unconstitutional. According to the Operations Memorandum (#14-10-02) dated on October 9, 2014, LIHEAP policy has not changed regarding mandatory household members. Spouses are mandatory household members and must be included in the same LIHEAP household. Compass has been updated and allows applicants to input same-sex spouses.

⁶⁵ Roomers who are not related to a household member should not be counted in the household and are eligible on their own for a Cash grant if they meet LIHEAP’s eligibility requirement. 21-22 LIHEAP STATE PLAN, at app. B § 601.3.

⁶⁶ *Id.* at app. B § 601.81.

- income from roomers, boarders or apartment renters, and
- unearned income.⁶⁷

Note: Each of these categories of earnings has multiple subcategories.⁶⁸ For example, DHS has specifically stated that funds withdrawn from Individual Retirement Accounts, Certificates of Deposit and proceeds from the sale of stock certificates are to be counted as unearned income.⁶⁹

Some income sources, such as educational assistance, food stamps, and cash or in-kind heating assistance from public or private agencies, are **excluded** from the calculation of household income for the purposes of establishing eligibility for LIHEAP.⁷⁰ DHS has clarified that *all* students, not just undergraduate students, are able to exclude from household income educational assistance from scholarships, grants and loans.⁷¹

Other income exclusions include:⁷²

- Earned Income Tax Credits, even when paid throughout the year
- Wage earnings of a dependent child under 18
- Medicare premiums deducted from Social Security benefit payments
- Stimulus payments
- Earned income from temporary census employment
- Lost Wages Assistance
- 2021 Advance Child Tax Credit payments
- Payments for services or out-of-pocket expenses to volunteers serving as foster grandparents, senior health aids or senior companions, and to persons serving in programs under Title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§ 5001-5024)
- Payments, including stipends, to volunteers for VISTA, Service-Learning Programs, and Volunteer Programs under Title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C.A. §§ 4951 – 4994)
- Loans which can be verified with a statement from the lender or a loan document specifying the repayment plan
 - *Note:* Since 2017, the exclusion of loans from gross annual income no longer requires that the loans be designated for a specific purpose, **or** be from an established financial institution.⁷³

⁶⁷ *Id.* at app. B § 601.82.

⁶⁸ *See id.*

⁶⁹ *Id.* at app. B § 601.82(4)(xi).

⁷⁰ *Id.* at app. B § 601.84(1)-(25).

⁷¹ *Id.* at app. B § 601.84(1)-(2).

⁷² *Id.* at app. B § 601.84.

⁷³ *Id.* at app. B § 601.84(13).

Home Heating Responsibility

Applicants must have a home heating responsibility to receive LIHEAP. The following qualify as having a home heating responsibility:

- Homeowners or renters (including subsidized housing tenants) who pay for home heating fuel or utility service **directly to a vendor**.⁷⁴
 - *Note:* If someone outside the household pays the bill because the household has zero/minimal income, the household is still considered to have a heating responsibility and is eligible to receive LIHEAP unless the bill is always paid by someone outside the household.⁷⁵
- Renters who **pay for heat indirectly** as a part of their rent.⁷⁶
 - *Note:* if a LIHEAP applicant pays for heat as an undesignated portion of the rent - provided the rent itself is not based on a fixed percentage of their income - they are considered to have a heating responsibility.⁷⁷
- Roomers⁷⁸ who pay for their lodging in either a commercial establishment or in a private home which is their permanent and primary home.⁷⁹

Cash grant: To establish home heating responsibility for a Cash grant, the household must show responsibility for paying for the **primary fuel type** either directly to a vendor or to a landlord as a part of rent.⁸⁰

Note: Once it shows responsibility for the primary fuel type, the household can choose to have the Cash grant issued to its primary **or** secondary fuel type, and in certain circumstances, to a supplemental fuel type.⁸¹

- A Cash grant can only be directed to a supplemental fuel type where the main source of heat is inoperable, and the supplemental fuel type is the source of energy used most by the household.⁸²

⁷⁴ *Id.* at app. B § 601.31(2)(i)(A).

⁷⁵ *Id.*

⁷⁶ *Id.* at app. B § 601.31(2)(i)(B).

⁷⁷ *Id.*

⁷⁸ A roomer is defined as “[a]n individual who has an agreement with an **unrelated** landlord or property owner to rent a room whose payment for lodging includes heat and may include a private bathroom or one of the following: (i) Board. (ii) Kitchen or bathroom privileges on a shared basis. (iii) Light housekeeping facilities.” *Id.* at § 601.3 (emphasis added). DHS could request written verification from the property owner or landlord of the roomer’s occupancy. *Id.* at vi.

⁷⁹ *Id.* at app. B § 601.31(2)(i)(C).

⁸⁰ *Id.* at app. B § 601.31(2).

⁸¹ *Id.* at app. B § 601.41(4).

⁸² *Id.*

- A **secondary** fuel type is the source of energy necessary to operate the primary fuel type, while a **supplemental** fuel type is a source of energy used for heating in addition to the primary fuel type.⁸³

Crisis grant: To establish home heating responsibility for Crisis, the household must show it pays for either its primary **or** secondary fuel type either directly to a vendor or indirectly through a third party as a part of rent.⁸⁴ For an important comparison of primary and secondary fuel types, as well as supplemental fuel types, please see the Special Issues section of this manual.

Per DHS policy, the following individuals **do not** have a home heating responsibility and cannot receive LIHEAP:

- Renters are ineligible if their rental charge includes an undesignated amount for heat AND their rental charge is based on a fixed percentage of their income or on their source of income.⁸⁵ This would apply to subsidized-housing tenants whose heat is included in their rent.⁸⁶
 - However, if a renter in this situation pays for their secondary fuel type directly to a vendor AND that heating source is necessary for the operation of their primary fuel type, then the household would be eligible for a Crisis grant for their secondary fuel type.
- A roomer is ineligible if the charge for room/room & board includes an undesignated amount for the main fuel AND the charge for room and board is based on a fixed percentage of their income or on their source of income.⁸⁷
- A household is ineligible if some other person or agency is always responsible for the heating bill (for example, people in subsidized housing who have the bill paid by the housing agency; students).⁸⁸ However if the bill is paid by someone outside the household because the household has zero/minimal income, the household is still considered to have a heating responsibility and therefore eligible to receive LIHEAP.⁸⁹

⁸³ *Id.* at app. B § 601.3.

⁸⁴ *Id.* at app. B § 601.31(2).

⁸⁵ *Id.* at app. B § 601.31(2)(i)(B).

⁸⁶ *Id.*

⁸⁷ *Id.* at § 601.31(2)(i)(C).

⁸⁸ *Id.* at app. B § 601.31(2)(i)(A).

⁸⁹ *Id.*

Residency

Household members must permanently reside in Pennsylvania.⁹⁰ There is no requirement that an applicant reside in Pennsylvania for a certain period of time before they are considered a resident. As long as an applicant resides here and intends to stay, they are considered a resident.

Temporary Living Arrangements

Individuals in a temporary living arrangement, such as a visit, vacation, or education, generally do not qualify for LIHEAP.⁹¹ People living in institutions, dormitories, fraternity or sorority houses, or boarding homes are ineligible.⁹²

College students can apply for and must not be denied LIHEAP eligibility solely on the basis of the temporary living arrangement section of the LIHEAP State Plan.⁹³ College students with year-round leases or for the school year only are considered residents of the county where they go to school and can qualify for LIHEAP. Generally, a temporary living arrangement is intended to last only for a few days or weeks, while a permanent living arrangement may last months or years.⁹⁴



Advocacy Tip: Individuals who have temporarily left their permanent residence as a result of a home heating crisis **are** eligible for a grant for their permanent residence.⁹⁵

Recreational Vehicles

Persons living in recreational vehicles (Campers and RVs) are only eligible for LIHEAP if they provide verification that the recreational vehicle is permanently located in Pennsylvania and they have no other permanent residence, and the heating appliance is being used in accordance with the heating manufacturer's specifications.⁹⁶

Operators of a Licensed Business

Persons operating a licensed business out of the LIHEAP household's residence are ineligible for LIHEAP if they use the home's utilities as a deduction on their business' tax return **and** a majority (more than 50%) of the home is used for business.⁹⁷ DHS will use line 30 of Schedule C of IRS

⁹⁰ *Id.* at § 601.31(3).

⁹¹ *Id.* at § 601.31(2)(ii).

⁹² *Id.*

⁹³ See PA. DEP'T OF HUMAN SERVICES, LIHEAP HANDBOOK § 614.1 (Feb. 8, 2013), <http://services.dpw.state.pa.us/oimpolicymanuals/liheap/index.htm>.

⁹⁴ See *id.* at § 614.2.

⁹⁵ See 21-22 LIHEAP STATE PLAN app. B § 601.105.

⁹⁶ *Id.* at app. B § 601.31(2) (iii).

⁹⁷ *Id.* at § 601.31(2)(iv).

Form 1040 (Profit or Loss from Business) and block 7 of IRS Form 8829 (Expenses for Business Use of Your Home) to determine LIHEAP eligibility for household business owners.⁹⁸

Fleeing Felon

Persons who are currently incarcerated or fleeing to avoid prosecution, custody or confinement after a felony conviction (or high misdemeanor in New Jersey) are ineligible for LIHEAP.⁹⁹



Advocacy Tip: There is an open question as to whether it is DHS’s burden to demonstrate that the person is actually “fleeing.” Advocates should carefully scrutinize the facts and, if the situation merits it, file an appeal if the individual has an outstanding warrant for a reason other than fleeing prosecution, custody, or confinement.

Operation of Heating Appliance

The heating appliance must be installed and operating based on the manufacturer’s specifications or current code requirements, whichever is more stringent.¹⁰⁰ If not, or if the household isn’t following all applicable building and fire codes, that household is not eligible for LIHEAP.¹⁰¹

Non-Citizen Status

Lawfully admitted non-citizens are eligible to receive LIHEAP regardless of when they arrived in the United States, so long as they meet LIHEAP eligibility requirements.¹⁰² Eligible non-citizens include: lawful permanent residents, asylees, refugees, parolees, conditional entrants, those withheld from deportation or removal, Cuban/Haitian entrants, and those who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States.¹⁰³ Appendix B to the State Plan contains a full list of eligible statuses and acceptable documentation.¹⁰⁴

Household may still be eligible for LIHEAP even with household members who don’t qualify

The mere presence of non-eligible persons in the home does not disqualify the household from receiving LIHEAP. DHS has clarified that households with fleeing felons or members ineligible because of their immigration status, may still be eligible for LIHEAP if there are members of the household who meet the eligibility requirement. The caveat is that the income of all members

⁹⁸ PA. DEP’T OF HUMAN SERVICES, POLICY CLARIFICATION OF LIHEAP ELIGIBILITY FOR HOUSEHOLD BUSINESS OWNERS (Nov. 7, 2011), http://services.dpw.state.pa.us/oimpolicymanuals/liheap/PLA15989605_.pdf.

⁹⁹ 21-22 LIHEAP STATE PLAN at app. B § 601.31(2)(v).

¹⁰⁰ *Id.* at app. B § 601.31(2)(vi).

¹⁰¹ *Id.*

¹⁰² *Id.* at app. B § 601.31(4).

¹⁰³ *See id.*

¹⁰⁴ *Id.* at B-8. The last category (battered or subject to extreme cruelty) can be shown through collateral contacts, affidavits, and eyewitness accounts.

of the household (even ineligible members) counts for income eligibility purposes, however, ineligible household members do not count for household size purposes. For example, if a household contains an undocumented father, a U.S. Citizen mother, and 2 U.S. citizen children, the income of all household members would count, but for determining whether the household meets the income eligibility guidelines, the household size would be three (3), not four (4).

Social Security Numbers

An applicant **does not** need a Social Security number to be eligible for LIHEAP. However, each household member one year of age or older who does not provide a Social Security number must be listed on the Energy Assistance Affidavit.¹⁰⁵ This Affidavit is in the Certification section of the LIHEAP application.

Note: The Energy Assistance Affidavit has been more prominently highlighted in the Certification section on page 3 of the LIHEAP application, however the instructions are still somewhat confusing.

Applications

An individual must complete and submit an application to receive LIHEAP.¹⁰⁶ All households that received a LIHEAP grant in 2018-2021 should receive an application or a postcard informing them of how to apply on-line mailed to their home. Applications are generally available upon request from different sources in the community, such as CAOs, a LIHEAP administering agency, utility companies, or online at DHS's website.¹⁰⁷ They are also attached hereto at Appendix B.

Note: Because the income eligibility requirements for LIHEAP can differ from year to year and a household may have experienced changes (such as in income level or size), receipt of an application or postcard in the mail does not imply or indicate current eligibility.

An individual also may apply online through the COMPASS website.¹⁰⁸ DHS strongly encourages applicants to apply online through COMPASS. Households using COMPASS may receive an automated eligibility determination, if the income is already known to and verified by DHS because of participation in other programs such as SNAP, MA, or TANF, and the household's address and composition matches the information already in DHS' system.¹⁰⁹ The household will

¹⁰⁵ 21-22 LIHEAP STATE PLAN at app. B § 601.106

¹⁰⁶ *Id.* at app. B § 601.21.

¹⁰⁷ See PA. DEP'T OF HUMAN SERVICES, LIHEAP BROCHURE - ENGLISH (2016); See also PA. DEP'T OF HUMAN SERVICES, LIHEAP BROCHURE - SPANISH (2016); PA Dep't of Human Services, *Heating Assistance/LIHEAP*, <http://www.dhs.pa.gov/citizens/heatingassistanceliheap/index.htm> (last visited Oct. 11, 2019).

¹⁰⁸ See www.compass.state.pa.us.

¹⁰⁹ 21-22 LIHEAP STATE PLAN at app. B § 601.22.

still have to provide proof of home heating responsibility.¹¹⁰ Please let PULP know if applicants experience any difficulties with the automated eligibility determination.

The same form is used to apply for each of the LIHEAP components, including the Crisis Interface Program.

An individual may need assistance to complete the application. Homebound individuals have the right to request that LIHEAP staff mail an application to them at their home and may also request help in filling out the form.¹¹¹

Timing of Application

The date of application is the date the County Assistance Office or administering agency receives the application.¹¹² Where an individual is assisted by a utility, community group, or another party in filling out and forwarding an application, **the formal date of application is only when the local CAO or administering agency receives the application.**¹¹³

DHS has indicated that all households submitting a LIHEAP Cash application in 2021-2022 will receive a system generated notice informing them that their application has been received. This notice will be triggered once the application has been data entered.

As noted above, households using COMPASS may receive an automated eligibility determination if income is already known to and verified by DHS because of participation in other programs such as SNAP, MA, or TANF, and the household's address and membership matches the information already in DHS' system.¹¹⁴

DHS Response

The CAO must provide the applicant with a written determination within 30 days of receiving a complete application for a Cash grant.¹¹⁵ If the Cash grant application is deemed incomplete, the administering agency must send the applicant a notice indicating what information is missing within 10 workdays of receipt.¹¹⁶ The applicant will then have 15 days from the date of that notice to return the missing information in order to avoid rejection of the application.¹¹⁷

¹¹⁰ *Id.*

¹¹¹ *Id.* at § 601.24.

¹¹² *Id.* at § 601.21(3).

¹¹³ *Id.*

¹¹⁴ 21-22 LIHEAP STATE PLAN at app. B § 601.22.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at app. B § 601.23.

¹¹⁷ *Id.*



Advocacy Tip: If you have a client who has not applied by or near the end of the LIHEAP season (May 6, 2022) have them apply even if they do not have all their documentation with them at the time. An incomplete application is not rejected, it is deemed incomplete, and the client will then have 15 days from the date of the incomplete notice to submit the documentation. This will allow households nearing the end of the season to have their grant considered.

Although significant Cash grant processing delays have occurred in previous years, DHS's obligation to provide a determination of eligibility within 30 days of receiving a completed application continues to exist.¹¹⁸ If County offices are routinely failing to comply with this deadline, please alert PULP so that we can bring it to the attention of DHS.

Documentation vs. Verification

DHS uses two different classifications for information submitted in association with LIHEAP: “verification” and “documentation.”¹¹⁹ “Verification” includes “any form of convincing information, including oral statements or documentation.”¹²⁰ “Documentation” meanwhile, is “written or printed evidence, such as fuel bills, rent receipts, or pay stubs, which is needed to determine LIHEAP eligibility and the type and amount of the LIHEAP benefit.”¹²¹

Documenting Income

Applicants must **document** the amount and source of the income for: 1) all household members and 2) for anyone living in the residence who already received LIHEAP benefits during the program year as a member of another household.¹²²

If an applicant claims little or no income for the household, the applicant will be required to provide **evidence** explaining how the household is meeting its financial obligations and basic living needs.¹²³ While the Plan does not specify the form of this evidence, the 2021-2022 Application for LIHEAP requires applicants with no income in the past month, or with income that is less than the cost of the household’s monthly basic living needs (food, shelter, personal items, etc.), to explain in writing how the household is meeting its basic living needs.¹²⁴ DHS generally applies a high level of scrutiny to applications of individuals who assert that they have no income. If an applicant cannot obtain income information, as the CAO to assist with third party verification. If third party verification is not possible, request that a CAO accept client statement!

¹¹⁸ See *id.* at app. B § 601.22.

¹¹⁹ See *id.* at app. B § 601.101.

¹²⁰ *Id.* at app. B § 601.101(1).

¹²¹ *Id.* at app. B § 601.101(2).

¹²² *Id.* at app. B § 601.102(a).

¹²³ *Id.* at § 601.103.

¹²⁴ See PA. DEP’T OF HUMAN SERVICES, LIHEAP APPLICATION.

Documenting Heating Responsibility

Cash grant: applicants must **document** their responsibility for the primary fuel type for the household.¹²⁵ A household that pays a vendor directly can satisfy this responsibility by submitting a fuel bill or receipt issued within the two months prior to the date of the LIHEAP application.¹²⁶ Households can also submit receipts from vendors for fuel purchased since January 2021.¹²⁷

Note: Many utilities have established on-line portals that allow LIHEAP case workers to verify home heating responsibility directly through the portal. If a client does not have a bill from their primary heating source, they should still apply, and this can be verified by the utility through the portal or through a phone call. Of course, for deliverable fuel vendors, the household will have to document their responsibility by providing a receipt for the delivery of home heating fuel. Since the purpose of this documentation is to prove home-heating responsibility, the receipt can be from a different vendor than the one that the client is electing to designate as the household's current LIHEAP vendor.

Households that pay for heat indirectly as an undesignated part of their rent can provide verification or documentation from the landlord or rental agent to show home heating responsibility.¹²⁸ Oral verification by the landlord is sufficient to meet this burden.¹²⁹

Note: If a household chooses to have a benefit paid to the vendor of a secondary fuel type, then the household must document its responsibility for both the primary and secondary fuel types.¹³⁰

Crisis grant: Applicants for Crisis grants must prove payment responsibility for *either* the primary or secondary fuel type.¹³¹ If, as a result of a prior service termination, the applicant does not have a recent bill or receipt, the intended vendor must supply documentation that indicates the vendor will activate service upon a determination of LIHEAP eligibility.¹³²

Note: In certain situations, an applicant for a Cash or Crisis benefit can show proof of home heating responsibility despite the billing payment responsibility being in someone else's name.¹³³ This includes the death of the bill payer, credit problems of the applicant, and domestic violence

¹²⁵ 21-22 LIHEAP STATE PLAN, at app. B § 601.104(a).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.* at app. B § 601.104(c).

¹²⁹ *Id.*

¹³⁰ *Id.* at app. B § 601.104(a).

¹³¹ *Id.* at app. B § 601.104(b).

¹³² *Id.*

¹³³ *Id.* at app. B § 601.104(d).

safety concerns.¹³⁴ The applicant must then provide written proof that he/she lives at the residence address, and explain why the bill is in another person’s name.¹³⁵

- For example, if the LIHEAP applicant continues to have the utility bill in the name of her deceased spouse, she may then provide a driver’s license documenting that she resides at the residence.¹³⁶

Documenting Proof of Residence

Generally, an applicant must live at the residence being heated. However, an applicant temporarily living away from his or her actual residence can still apply for LIHEAP by providing some documentation of the emergency or extenuating circumstances requiring the household to live elsewhere.¹³⁷ The CAO is required, upon request, to assist in providing appropriate documentation for applicants in these situations.¹³⁸

Documenting a Crisis

To receive a Crisis grant, the applicant must prove that there is a home heating crisis.¹³⁹ Acceptable forms of proof include:

- A utility termination notice or verification of a scheduled termination,
- Verification that utility service has already been terminated, or
- A statement from the applicant that the household’s deliverable fuel supply is depleted or will last less than 15 days.¹⁴⁰

Whether a crisis exists is fact specific. For example:

- A termination notice is generally sufficient proof to document a crisis for receipt of a Crisis grant.¹⁴¹

Because regulated utility companies cannot terminate service to LIHEAP income-eligible households during the Winter Moratorium (December 1 through March 31), a termination notice issued by a regulated utility company during the Winter Moratorium

¹³⁴ See *id.*

¹³⁵ See *id.*

¹³⁶ *Id.*

¹³⁷ *Id.* at app. B § 601.105.

¹³⁸ *Id.*

¹³⁹ *Id.* at app. B § 601.108.

¹⁴⁰ *Id.*

¹⁴¹ *E.g., Id.* at app. B § 601.62(2)(ii); 66 Pa C.S. § 1406(g).

is not, by itself, accepted by DHS as proof of a home heating emergency.¹⁴² However, DHS will accept, as proof of a crisis situation, shut-off notices dated February 1, 2022 or later that are issued by regulated utilities.¹⁴³

- Subsidized housing tenants are not eligible for a Crisis grant if their rental charge includes an undesignated amount for heat AND is based on a fixed percentage of their income.¹⁴⁴

However, if a subsidized housing tenant who has heat included in their rent has a direct relationship with electric company and the electricity is necessary to operate their primary fuel type, then they would be eligible for a Crisis grant to their secondary fuel type (electricity).



Advocacy Tips

An advocate may need to address:

- *Social Security Numbers*: A Social Security number is not required for eligibility, but if the applicant has a Social Security number and they are able to provide it, DHS has determined that it must be provided.¹⁴⁵ Regulated vendors often request social security numbers in order to match the grant to the appropriate account. An applicant who does not have a Social Security number or is unable to provide one can complete an Energy Assistance Affidavit.¹⁴⁶ The Energy Assistance Affidavit is printed in the certification section on page three of the LIHEAP application.
- *Immigration Status*: Official documentation from the U.S. Citizenship and Immigration Services is generally sufficient to establish lawfully admitted non-citizen status.¹⁴⁷ A chart of acceptable documents for proving eligible non-citizen status is provided in the State Plan, at the end of appendix B.¹⁴⁸
- *Verification Issues*: If an applicant cannot obtain income information, as the CAO to assist with third party verification. If third party verification is not possible, request that a CAO accept client statement!

¹⁴² 21-22 LIHEAP STATE PLAN, AT app. B § 601.108.

¹⁴³ Shut-off notices are valid for sixty days from the date they are issued. 66 Pa. C.S. § 1406(b)(1)(i). As such, a shut-off notice issued after February 1st could be acted on by the utility in April, after the end of the winter moratorium.

¹⁴⁴ 21-22 LIHEAP STATE PLAN, at app. B § 601.31(2)(i)(B).

¹⁴⁵ *Id.* at app. B § 601.106.

¹⁴⁶ *Id.*

¹⁴⁷ *See d.* at app. B § 601.109.

¹⁴⁸ *Id.* at app. B.

Cash Grant

The LIHEAP Cash grant is available to all eligible individuals with a home heating responsibility.¹⁴⁹ An individual may be a renter or an owner and may use *any* type of fuel to provide heat to the residence, including but not limited to: gas, oil, electric, wood, propane.¹⁵⁰ The purpose of the Cash grant is to assist low income households with their financial home heating burden.¹⁵¹ Therefore, to receive a Cash grant an individual:

- Need **not** be threatened with termination of service;
- Need **not** have an outstanding bill or be in debt to a utility or energy vendor; and
- Need **not** have a direct relationship with a utility or energy vendor.

Grants are calculated based upon a number of household characteristics that impact affordability:¹⁵²

- Household size,
- Household income,
- Heating Region, and
- Primary (or main) Fuel Type.

Based upon these household characteristics, Cash grants for 2021-2022 will range from \$500 to \$1,500 per household.¹⁵³ The LIHEAP Benefit Amount Table shows the size of the Cash grant a household may receive.¹⁵⁴

Note: The Benefit Amount Table only includes income levels up through \$79,620. However, households with incomes above \$79,620 may still be eligible, depending on household size. Refer to Appendix A of this Manual for 2021-2022 PA LIHEAP Income Guidelines.

If the household pays for fuel directly, then DHS will send the Cash grant to the fuel vendor or utility on behalf of the household.¹⁵⁵ The applicant receives the grant directly in the following situations: if the household pays for heat as an undesignated part of rent, the fuel vendor refuses

¹⁴⁹ See *id.* at app. B § 601.31.(2)

¹⁵⁰ See *id.*

¹⁵¹ See *id.* at app. B § 601.2.

¹⁵² *Id.* at app. B § 601.41(a)(1-4).

¹⁵³ See 21-22 LIHEAP STATE PLAN, at ii.

¹⁵⁴ See PA. DEP'T OF HUMAN SERVICES, LIHEAP BENEFIT AMOUNT TABLE (2019), <http://www.dhs.pa.gov/citizens/heatingassistanceliheap/liheapbenefitamounttable/index.htm>.

¹⁵⁵ 21-22 LIHEAP STATE PLAN, at app. B § 601.44(a).

to participate in the program or has been removed from the list of participating vendors, the heating bill is in the name of a non-household member, the applicant is a roomer, or the bill is paid to a third party such as in a master-metered situation.¹⁵⁶

Landlords, rental agents, housing authorities, or hotel or rooming house managers are not eligible to receive direct vendor payments.¹⁵⁷ Thus, an unscrupulous landlord is not able to intercept or coerce a LIHEAP grant from a tenant.

With the advent of competition in electric and natural gas utility service, some households may be purchasing their energy generation from an entity other than their local regulated distribution company. LIHEAP grants can only go to the local regulated distribution company. If a supplier bills the customers separately for generation service, those customers cannot designate their LIHEAP grant to pay the generation bill.¹⁵⁸ However, in most cases, residential customers who use a supplier are billed through the distribution company. In that circumstance, LIHEAP can apply to the entire bill.

Crediting a Cash Grant to a CAP Customer's Account

Background

The purpose of LIHEAP is to help low income households meet their home heating needs. The LIHEAP Federal statute and regulations and Pennsylvania's approved State Plan require that LIHEAP funds be applied in full to the account of LIHEAP eligible households.

Customer Assistance Programs (CAPs)

In addition, each large regulated electric and natural gas distribution company in Pennsylvania must provide a Customer Assistance Program (CAP) for low income consumers within its service territory.¹⁵⁹ CAPs generally serve households with income at or below 150% of the Federal poverty level, similar to the LIHEAP eligibility level. The Pennsylvania Public Utility Commission (PUC) oversees the CAP programs, which are administered by the individual utility companies. CAP programs protect consumers' health and safety by helping low income customers maintain affordable utility service.¹⁶⁰ In CAP, monthly utility bills are lowered by providing a reduced rate through either a Percentage of Income Payment Program (PIPP or PIP), a rate discount, or some

¹⁵⁶ *Id.* at app. B § 601.44(b).

¹⁵⁷ *Id.* at app. B § 601.44(c).

¹⁵⁸ Note, however, that almost all competitive electric suppliers sell their receivables to the utility company and have that utility company bill the customer for the supply charges. In this case, applicants who direct their LIHEAP grant to the utility will indirectly pay for the competitive supply. This is because the utility retains the ability to terminate service for nonpayment of the energy costs that it purchases from the competitive supplier. It is only in those cases where a supplier separately bills the customer that the customer cannot direct the LIHEAP grant to the supplier.

¹⁵⁹ 66 Pa. C.S. §§ 2803 (electric), 2203 (gas).

¹⁶⁰ 52 PA. CODE §§ 54.73 (electric), 62.3 (gas).

other PUC approved model. Entry into CAP may also generally freeze any collection activity of pre-program arrears and enable their eventual forgiveness.

Companies provide unique names for their CAP program. For example, PPL’s CAP is OnTrack, PGW’s is Customer Responsibility Program (CRP), and NFG’s is Low Income Rate Assistance (LIRA). Each program operates somewhat differently.

Intersection of LIHEAP and CAP

Generally, customers enrolled in a utility Customer Assistance Program (CAP) is generally required or otherwise encouraged to apply for LIHEAP assistance.

LIHEAP Crisis recipients not already enrolled in CAP must be offered entrance into the CAP of the utility company designated to receive that Crisis grant, or a budget plan, depending on which is the most advantageous.¹⁶¹

However, PUC policy, which governs utility accounting practices, had permitted utilities not to credit a CAP participant’s LIHEAP Cash grant specifically to that individual customer’s current bill. Instead, utilities could apply the grant to cover the general costs of the Customer Assistance Program, to frozen pre-program arrears or to the difference between the CAP “Asked to Pay” amount and the amount that the customer actually consumed.

To address this questionable application of the CAP payment by utilities, DHS formulated a policy **requiring utilities to apply the LIHEAP Cash grant to the individual CAP customer’s asked-to-pay amount.**¹⁶² The vendor copy of the Vendor Agreement for the 2021-2022 program year¹⁶³ also states the following:

Public utilities that operate Customer Assistance Programs (CAP) will apply the LIHEAP Cash grant in full to the customer’s account:

- a) To resolve any past-due CAP payments;
- b) To the current CAP payment; and
- c) Any remaining funds credited to future CAP payments.

NOTE: A CAP payment is the amount the customer is required to pay under the terms of the utility’s CAP agreement.

¹⁶¹ 21-22 LIHEAP STATE PLAN at app. B § 601.61.

¹⁶² *Id.* at app. B § 601.45.

¹⁶³ See Appendix F attached hereto.

DHS continues to require that LIHEAP Cash grants be applied to a CAP household's "asked to pay" amount. The vendor agreement does not use that phrase, but instead talks about a household's "CAP payment", defined as "the amount the customer is required to pay under the utility's CAP agreement." Since each of the CAP programs operates slightly differently, advocates are encouraged to contact PULP staff with questions. Additionally, each of the utility's CAP plans can be found on the Public Utility Commission's website.¹⁶⁴



Advocacy Tip: Advocates should remain vigilant and carefully review each customer's account to be certain that the LIHEAP Cash grant has, in fact, been credited properly to the "Asked to Pay" amount. The review process may be daunting since it is often difficult to trace how utilities are applying LIHEAP payments. If you have questions, please contact PULP staff.

Policy Aftermath:

In reaction to this policy change, many utilities have sought novel means to recover the value of the LIHEAP grants which formerly covered general operating costs of the Customer Assistance Program. One method, called "CAP-Plus," adds a flat fee to each customer's account based on the total value of LIHEAP grants obtained in the previous program year. The legality of this process had been challenged; however, the Commonwealth Court of Pennsylvania has affirmed the adoption of the CAP-Plus program.¹⁶⁵ LIHEAP clients participating in CAPs at utilities that have implemented CAP-Plus **are required to pay** this additional charge and advocates should be aware that other companies may also petition the Commission to implement a CAP-Plus payment.

Crisis Grant

The LIHEAP Crisis grant assists households with a home heating related emergency, such as: loss of heat due to a heating system failure; actual or scheduled service shut-off; lack of fuel; or imminent depletion of fuel.¹⁶⁶ Crisis grants may be applied to either the primary or secondary heat source, or a supplemental heat source where the main source of heat is inoperable.¹⁶⁷ Although households should apply for both Cash and Crisis grants if they are eligible for both, the LIHEAP State Plan is clear that households may apply for and, if eligible, receive a Crisis grant regardless of whether they apply for and receive a Cash grant.¹⁶⁸

¹⁶⁴ See http://www.puc.pa.gov/consumer_info/electricity/energy_assistance_programs.aspx. Scroll down on the page to the section titled "Universal Service Plans and Evaluations."

¹⁶⁵ Pa. Communities Org. for Change, Inc. v. Pa. Pub. Util. Comm'n, 89 A.3d 338 (Pa. Commw. Ct. 2014).

¹⁶⁶ See 21-22 LIHEAP STATE PLAN at app. B § 601.4(2).

¹⁶⁷ *Id.* at app. B § 601.61.

¹⁶⁸ *Id.* at app. B § 601.32.

When a crisis arises, an individual may apply for a Crisis grant as well as for a Cash grant. DHS first looks to the Cash grant amount to resolve the crisis; if that amount is not enough, DHS then approves the Crisis grant only to the extent necessary to resolve the crisis, and only if the Crisis grant will resolve the emergency.¹⁶⁹

Cash grants and Crisis grants, as well as the Crisis Interface program, can be used individually or jointly to resolve the crisis. Types of assistance can include:

- Pipe thawing,
- Gas/fuel line repair,
- Purchase of a new furnace/heating system,
- Furnace repair,
- Water-heating system repair,
- Broken window repair,¹⁷⁰ or
- Payment of utility bills or for fuel delivery.¹⁷¹

The State Plan notes these examples, but other heat related emergencies can also be addressed.

Other grants, such as from a regulated utility's Hardship Fund or other public or private sources of funding, can also be used in combination with LIHEAP to resolve a crisis.¹⁷²

In response to **an advocate's request, or pursuant to individual utility company policy, a utility may also accept less than the amount due to resolve a crisis.** For instance, in 2020, PECO announced that it will accept a Crisis grant as sufficient to resolve a crisis and prevent termination of service or restore service for all households with balances of \$3,000 or less. After application of the Crisis grant, PECO agreed to place the balance of the arrears on a payment agreement.

Advocates are encouraged to be creative in combining and leveraging these grants – and requesting that utilities reduce up-front payment amounts - for the purpose of resolving a utility crisis.

Expedited Processing

¹⁶⁹ See *id.* at app. B § 601.32(3).

¹⁷⁰ Broken windows alone do not meet the definition of a home heating emergency unless their repair is necessary to ensure the effectiveness of other repairs or improvements. *Id.* at app. B § 601.62(vi).

¹⁷¹ 21-22 LIHEAP STATE PLAN, at app. B § 601.62.

¹⁷² Each regulated electric and gas utility has a hardship fund. See http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx. Some of those hardship fund programs – such as PPL's Operation HELP – allow utility customers to use those funds for other fuel types.

The CAO or other administering agency must expedite processing of Crisis grant applications. Households that qualify for a Crisis grant must receive assistance within **48 hours** of submitting the application.¹⁷³ In life-threatening situations, assistance must be provided within **18 hours** of the application.¹⁷⁴



Advocacy Tip: CAOs and administering agencies often fall behind on the processing of applications due to the volume of applications within a limited time period. If an applicant does not get a decision from the CAO within the 48 hour/18 hour Crisis deadlines (as well as the 30-day Cash deadline), the advocate should contact the CAO. Each CAO has a LIHEAP coordinator who can troubleshoot missed Crisis deadlines.¹⁷⁵ Have your CAO identify that individual and contact them immediately when an application is not processed within the 48 hour/18 hour window. We have provided the list of LIHEAP Coordinators as Appendix D of this document.

Crisis Grant Eligibility

Crisis applicants must meet distinct eligibility criteria to receive a grant:

- The household must meet all the general eligibility requirements regarding income, home heating responsibility, residency, and citizen status.¹⁷⁶
- The household must be without heat or in imminent danger of being without heat due to a weather-related event, a home heating system breakdown, a utility shut-off or an energy supply shortage.¹⁷⁷ **DHS has clarified that a household that heats with a deliverable fuel will be considered to be in a home heating emergency if their heating fuel supply will last less than 15 calendar days.**¹⁷⁸
- The Crisis benefit must alone, or in conjunction with other resources, resolve the home heating emergency.¹⁷⁹
- The household must provide proof of the home heating emergency.¹⁸⁰

Grant Features

The amount of a Crisis grant is the amount needed to resolve the crisis subject to the minimum allowable Crisis grant of \$25 and the maximum allowable Crisis grant of \$1,200.¹⁸¹ The amount

¹⁷³ 21-22 LIHEAP STATE PLAN, at app. B § 601.4(2).

¹⁷⁴ *Id.*

¹⁷⁵ A list of LIHEAP contacts at each CAO is attached to this manual as Exhibit D.

¹⁷⁶ 21-22 LIHEAP STATE PLAN, at app. B § 601.32(1).

¹⁷⁷ *Id.* at app. B § 601.32(2).

¹⁷⁸ *See id.* at app. B § 601.62(2)(i).

¹⁷⁹ *Id.* at app. B § 601.32(3).

¹⁸⁰ *Id.* at app. B § 601.32(4).

¹⁸¹ *Id.* at ii.

of the Crisis grant cannot exceed whatever amount is needed to resolve the crisis, either by itself or combined with other resources, such as hardship grants provided through utilities.¹⁸²

Crisis grants are paid directly to the approved LIHEAP vendor or utility.¹⁸³ Exceptions in which Crisis grants are paid directly to the applicant are rare but may arise situations when direct payment to the vendor cannot be made. In this case, DHS will pay the Crisis benefit to the applicant as a reimbursement after the purchase has been verified.¹⁸⁴

Crisis funds can pay reconnection fees, re-start fees, and reasonable delivery charges.¹⁸⁵ **They may not be used to pay security deposits or late fees.**¹⁸⁶ Advocates should note that as of January 2015, regulated utilities can no longer require CAP eligible customers to pay a security deposit and should advise PULP of any utilities that attempt to do so.¹⁸⁷ Most CAP programs use the same income guideline as LIHEAP - 150% of Federal Poverty and below - however, CAP programs may count income and household members that LIHEAP does not, and vice versa.

Heating System Repairs

Weather-related heating emergencies may include heating system repairs or heating system replacements.¹⁸⁸ A household can use a Crisis grant to pay for the repairs,¹⁸⁹ but PULP recommends that clients access the Crisis Interface/Weatherization Assistance Program for assistance in making the necessary repairs or replacing their heating system free of charge, provided the household is income eligible. This program is discussed in greater detail below.

Deliverable Fuels

Special rules apply to the payment of a Crisis grant for a shortage of deliverable fuels (e.g., oil, propane, kerosene, wood). In this situation, **an applicant's statement** that their fuel supply has been exhausted or will last fewer than 15 days is acceptable proof of an energy crisis.¹⁹⁰

In the case of deliverable fuels, the LIHEAP Crisis grant can include the cost of delivery up to the \$1,200 maximum payment.¹⁹¹ If the fuel is not delivered by the vendor, the household will receive the amount needed to resolve the crisis or the maximum amount of fuel that can be transported

¹⁸² See *id.* at app. B § 601.61.

¹⁸³ *Id.* at app. B § 601.64.

¹⁸⁴ *Id.*

¹⁸⁵ See *id.* at app. B § 601.62(2)(i-ii).

¹⁸⁶ *Id.* at app. B § 601.45.

¹⁸⁷ 66 Pa. C.S. § 1404(a.1).

¹⁸⁸ 21-22 LIHEAP STATE PLAN at app. B § 601.62(1).

¹⁸⁹ See *id.*

¹⁹⁰ *Id.* at app. B § 601.108.

¹⁹¹ See *id.* at app. B § 601.61.

by the household in one trip; again subject to the \$1,200 maximum Crisis payment.¹⁹² A prior statement from the vendor is required to verify the cost of the non-vendor pick-up.¹⁹³

DHS requires deliverable fuel vendors to charge the lowest price if the vendor has a variable pricing structure (i.e., one price for cash deliveries and one for credit deliveries), and requires that the household be charged the same amount as a non-LIHEAP household for an identical delivery based on quantity. In other words, if there is a minimum delivery fee (or a higher per unit price for a lesser amount of fuel) it must be assessed for LIHEAP and non-LIHEAP households equally.¹⁹⁴

Advocates should continue to watch out for this to ensure that households are paying the lowest possible price for deliverable fuel.

Crisis Resolution

A LIHEAP Crisis grant must resolve the crisis.¹⁹⁵ Households are **ineligible** for a Crisis grant if the grant, alone or combined with other resources available to the household, will not resolve the crisis.¹⁹⁶ Given the fragile economic condition of LIHEAP Crisis applicants and the current cost of energy, an \$1,200 Crisis grant alone could very likely be insufficient to resolve the crisis.



Advocacy Tip: Applicants will still be eligible for Crisis grants if the grant will resolve the crisis **in combination with other resources**. Advocates should work with applicants, reach out to community organizations, and negotiate with utilities to identify additional resources that will complement the Crisis grant in resolving the home heating crisis. Resources can include, but are not limited to, supplemental funds from community organizations or friends and family, utility hardship funds, and negotiating a lower amount owed with the utility or a payment arrangement or deferral of debt by the utility.

Minimum Grant: If a household requires less than \$25 to resolve a home heating emergency, then it will not be eligible to receive a Crisis grant.

Maintenance of Service: When a regulated electric or natural gas vendor accepts a Crisis payment to prevent termination or reconnect service to the household, then that vendor must maintain ongoing service to the household for at least 30 calendar days following the resolution of the crisis.¹⁹⁷ When a household receives a Crisis grant approval up to 30 days before the Winter

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *See* Vendor Agreement – Liquid or Solid Fuels ¶ 5a.

¹⁹⁵ 21-22 LIHEAP STATE PLAN, at app. B § 601.61.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* at app. B § 601.61.

Moratorium or during the Winter Moratorium period, then service may not be terminated until either 30 days after the Crisis is resolved, or May 1st, whichever is later.¹⁹⁸

Enrollment in CAP: If a utility accepts a Crisis grant, then that utility *must offer* that individual the opportunity to enroll in that utility’s Customer Assistance Program (CAP) or into a budget billing plan, whichever is more beneficial to the applicant.¹⁹⁹

LIHEAP Crisis Grants and the Winter Moratorium

There are conflicting legal principles at work during the Winter Moratorium. In general, customers of regulated electric and natural gas utilities with a household income at or below 250% of the Federal Poverty Level are protected from service termination from December 1 through March 31 of each year, unless the utility is specifically given permission to terminate by the PUC.²⁰⁰ A request for such permission by the utility is exceptionally rare. Customers of PGW have separate guidelines.²⁰¹

On one hand, Chapter 14 (the Pennsylvania statute that governs terminations) specifically states that a notice of termination is sufficient proof of a crisis to enable a low income household to qualify for a Crisis grant.²⁰² However, since the basis for receiving a Crisis grant rests with the household demonstrating the existence of an *imminent or actual crisis*, DHS does not generally consider a low income household protected by the Winter Moratorium to be in an imminent crisis and will not authorize a Crisis grant to such a household.

As a result, some confusing scenarios arise:

- **Scenario #1:** A regulated utility issues a termination notice, to take effect during the Winter Moratorium period. Because the Winter Moratorium prevents terminations, before the utility may act on that termination notice, it must petition the PUC for permission to do so.²⁰³ In the extraordinarily rare case that the PUC grants permission to act on the notice and terminate the household, then a crisis exists, and the household will be eligible for a Crisis grant. DHS does not consider the household to be in crisis until the PUC has given permission for the utility to act.²⁰⁴

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ 66 Pa. C.S. § 1406(e)(1).

²⁰¹ 66 Pa. C.S. § 1406(e)(2).

²⁰² 66 Pa. C.S. § 1406(g).

²⁰³ 66 Pa. C.S. § 1406(e)(1).

²⁰⁴ 21-22 LIHEAP STATE PLAN, at app. B § 601.62(2)(ii)(A).

- **Scenario #2:** Same facts as Scenario #1. The utility either does not seek PUC permission to act on the notice or seeks PUC permission and is denied. In either case, the applicant is not in an actual crisis, but Chapter 14 would appear to authorize the grant anyway.

DHS treats this situation as a quasi-crisis. In past years, applicants in this situation did not receive an absolute denial, but DHS delayed processing of the grant until a later date, pending funding availability.

Note: The applicant may receive a notice from DHS informing her that she is not presently eligible for a Crisis grant because there is no imminent or immediate crisis, but that she may receive a grant if, towards the end of the program year, she remains in a crisis situation and there is sufficient funding available. This could cause confusion for LIHEAP Crisis applicants.

- **Scenario #3:** A utility issues a termination notice in February to a household protected by the winter termination moratorium. Because termination notices are effective for sixty days, it will still be in effect after the close of the Winter Moratorium. After April 1, utilities can terminate service without PUC permission.



Advocacy Tip: Whether DHS will provide a Crisis grant may depend on a number of factors, such as the availability of funds, the actual closing date of the Crisis component, or other policy determinations. Because the notice will still be in effect after the moratorium, advocates should argue the Crisis grant will resolve an imminent crisis.

Vendors not regulated by the PUC are not subject to Chapter 14 or to the Winter Moratorium.²⁰⁵ Therefore, DHS will examine crisis applications for customers of those vendors on a case by case basis. For example, some Rural Electric Cooperatives or municipal utilities preclude termination during certain winter months, while others do not.

Crisis Interface/Weatherization Assistance Program Component

The Crisis Interface/Weatherization Assistance Program component of LIHEAP is designed to help low income households who are in a crisis situation due to inoperability or faulty functioning of a heating source as a result, for example, of a heating system or furnace breakdown. The program provides a household with necessary repairs to a furnace or to replace the furnace outright. However, the Crisis Interface Policy of the State Plan states that if the furnace has not been operating within past two heating seasons, it may not be eligible for Crisis services, as a

²⁰⁵ See 66 Pa. C.S. § 1406(e)(1).

furnace that has not been working for that long of a period of time may not be considered to be a weather-related emergency. The State Plan allows for some consideration on a case by case basis. The program is open from October 18, 2021 until May 6, 2022.

The measures for which Weatherization Agencies will be responsible under the LIHEAP Crisis program are as follows:²⁰⁶

- Repair of heating system
- Loan of auxiliary heater
- Repair of gas or other fuel lines
- Replacement of un-repairable heating systems
- Repair of hot water heating system
- Heating system pipe thawing service
- Repair of broken windows²⁰⁷
- Provide blankets

Because situations like the loss of a heat source represent crises, remedial action must be taken within an appropriate time frame of 48, or 18 hours in the case of life-threatening situation.²⁰⁸ Initially, a non-permanent action, such as the provision of space heaters, may temporarily help to ameliorate the situation.²⁰⁹ A more permanent solution should follow the temporary measure within a reasonable amount of time.²¹⁰ Unlike the Cash and Crisis components, the Crisis Interface program component provides services rather than grants.²¹¹ It is administered jointly by DHS and the Department of Community and Economic Development (DCED) in the following manner:

- The applicant must be determined to be in a crisis and eligible for a Crisis Interface referral by the DHS administering agency (such as the CAO);
- The DHS administering agency refers the applicant to the appropriate local weatherization agency;
- The weatherization agency conducts a home visit to assess the heating system, proceeds to take appropriate action to resolve the crisis, and if appropriate, initiates additional weatherization measures.²¹²

²⁰⁶ PA. DEP'T OF CMTY. & ECON. DEV., WEATHERIZATION ASSISTANCE PROGRAM STATE PLAN, at app. C § IV (2016).

²⁰⁷ DHS policy states that broken windows alone do not meet the definition of a home-heating emergency but can be repaired if the heating system is also being repaired or replaced. 21-22 LIHEAP STATE PLAN, at app. C § IV.

²⁰⁸ PA. DEP'T OF CMTY. & ECON. DEV., WEATHERIZATION ASSISTANCE PROGRAM STATE PLAN, at app. C § IV (2016).

²⁰⁹ *Id.* at § III.

²¹⁰ *Id.* at § IV.

²¹¹ *Id.* at § I.

²¹² *Id.*

Special eligibility rules apply for renters:

- In all cases, prior written permission must be granted by the landlord in addition to the applicant tenant for the agency to enter the premises to provide Crisis or Weatherization Services; and
- The landlord and tenant must sign an agreement, witnessed by the agency, that the tenant will not be evicted or suffer a rent increase for a reasonable time (not less than 18 months), unless the landlord can show the eviction or increase is not related to the weatherization work performed.²¹³

Appeals

Individuals can request fair hearings to challenge decisions of the CAO -- such as being improperly denied LIHEAP benefits; having benefits unjustly delayed; being approved for less than the correct amount; or being improperly assessed for an overpayment.²¹⁴ Individuals can complete and sign the appeal section of any notice, send a written or faxed request to the CAO, or tell the CAO they are appealing. In the case of an oral appeal, there must be a written follow-up within 3 days.

Note: LIHEAP is not an entitlement program. Unlike other public benefits programs, an appeal will be ineffective if the individual applied for LIHEAP after the program closed or when there was a lack of funds.²¹⁵

Detailed procedures for the appeal process are found in Chapter 870 of DHS's Supplemental Handbook, posted online at DHS's website.²¹⁶



Advocacy Tip: There are several key time frames for the advocate to keep in mind:

- An appeal must be taken within 30 days of the date of written notice from the CAO.²¹⁷
- An appeal must be taken within 60 days of the CAO's failure to act on a request or an application.²¹⁸
- An appeal must be taken within 6 months of the date of the CAO's failure to send a required written notice or where there is an administrative error.²¹⁹

²¹³ 21-22 LIHEAP STATE PLAN, at app. C § VII.

²¹⁴ *Id.* at app. B § 601.123(a).

²¹⁵ *Id.*

²¹⁶ See <http://services.dpw.state.pa.us/oimpolicymanuals/supp/index.htm>.

²¹⁷ *E.g.*, 55 Pa Code § 275.3(b)(1); PA. DEP'T OF HUMAN SERVICES, SUPPLEMENTAL HANDBOOK § 870.12 (Jul. 21, 2015), <http://services.dpw.state.pa.us/oimpolicymanuals/supp/index.htm>.

²¹⁸ *Id.*

²¹⁹ *Id.*

As long as the program is open, failure to adhere to these time frames, as well as other appealable issues, may be resolved by an individual simply filing a new application. In these situations, an applicant may benefit from direct advocacy to CAO staff to ensure proper processing of the application.



Advocacy Tip: If a LIHEAP application is deemed incomplete, the administering agency must send the applicant a notice indicating what information is missing within 10 workdays of receipt.²²⁰ The applicant will then have 15 days from the date of that notice to return the missing information in order to avoid rejection of the application.²²¹

If the applicant does not submit the missing information within 15 days and the application is rejected, the applicant may still submit the missing information within 60 days from the date of the original application, and the CAO will re-determine eligibility based on the information provided. After 60 days, the applicant must submit a new application.²²²

Special Issues to Watch for LIHEAP Advocates

The **primary fuel type** is “The central heating system used most by the household or, if the residence is not centrally heated or the central heating system is inoperable, the heat source used most by the household.”²²³

Primary, Secondary and Supplemental Fuel Types

LIHEAP designates three fuel types: main, secondary, and supplemental.²²⁴

The **primary fuel type** is “the type of energy consumed by the primary heat source to create heat.”²²⁵

The **secondary fuel type** is “the source of energy that is necessary, in addition to the primary heat source, to operate the primary heating source.”²²⁶

²²⁰ *Id.* at app. B § 601.23.

²²¹ *Id.*

²²² *Id.*

²²³ 21-22 LIHEAP STATE PLAN app. B § 601.3

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

A **supplemental fuel type** is “[a] source of energy that a household uses to provide heat in addition to the residence’s primary heat source.”²²⁷



Advocacy Tip: These definitions of secondary and supplemental fuel type can be helpful for a household. For example, if a household’s oil or gas furnace heating system needs electricity in order to operate, the loss of electric service to the residence will result in the shut-down of the furnace, and, therefore, loss of heat. In this instance, a household can apply for a LIHEAP grant citing electric as a “secondary fuel type.” The LIHEAP application specifically asks for information about secondary fuel types used to run primary fuel type.²²⁸ LIHEAP cash or Crisis grants can be directed to secondary fuel type. However, a Cash grant can be directed to a *supplemental* fuel type **only if** the main source of heat is inoperable and the supplemental fuel is the source of energy used most by the household for heating.²²⁹

Additionally, note that the definition of **primary heat source** allows non-centralized heating if the centralized heating system is inoperable. In that case, the primary heat source becomes the heat source that is used most by the household.

Note: that DHS has issued an Operations Memorandum indicating that it does not consider water as a secondary heating source.²³⁰ However, advocates have been able to convince DHS in the past to issue grants for water if they are necessary for the operation of the primary heating source – such as through steam radiators or other such system. Advocates should contact PULP if they run into this situation.

Restrictions on use of LIHEAP funds

LIHEAP benefits may be used to pay reconnection fees and late fees, but may **not** be used for security deposits.²³¹ When attempting to reconnect a household’s utility service, advocates may need to look to other resources or to the utility itself to help generate funds for security deposits or late fees. However, as of January 2015, CAP-eligible customers cannot be charged security deposits.²³² Most low income households that are eligible for LIHEAP will also be CAP eligible, subject to variations in household and income definitions between the utilities and DHS. PULP is interested in hearing about cases of LIHEAP recipients being charged security deposits for reconnection.

²²⁷ *Id.*

²²⁸ See PA. DEP’T OF HUMAN SERVICES, LIHEAP APPLICATION § 8.

²²⁹ 21-22 LIHEAP STATE PLAN, at app. B § 601.41(a)(4).

²³⁰ DHS Operations Memorandum 09-10-01, October 7, 2009.

²³¹ 21-22 LIHEAP STATE PLAN, at app. B § 601.45.

²³² 66 Pa C.S. § 1404 (a.1).



Advocacy Tip: In situations where the utility claims a LIHEAP recipient is not CAP eligible, it may still be worth advocacy to request that a utility waive security deposits or late fees. Particularly when the utility stands to receive a Crisis or Cash grant in exchange for the waiver, this request may receive a positive response. Additionally, each of the regulated utilities and some other energy vendors have Hardship Funds that assist struggling utility customers with their bills. Contact the household's local vendor to inquire about additional company-sponsored customer assistance mechanisms.

Transfer of Service or Initiation of Service at a new Address

For customers whose service has been disconnected at their previous address and who need services to be connected at their new address, a regulated utility may use a LIHEAP grant to cover 50% of the customer's back balance from the previous address plus a reconnection fee in order to restore service.²³³ If a LIHEAP Cash grant is more than this amount, the regulated utility must apply the remainder of the Cash grant to the household's future bills, and not to the remaining back balance.²³⁴ Utilities must also agree to keep service on through the moratorium and enroll the applicant in a CAP or budget program if eligible.²³⁵ The choice of CAP or budget program is to be based upon which is most beneficial to the applicant.

Earned Income Incentive for Amount of Cash Grant

An individual with earned income is eligible to receive a larger Cash grant than an individual with unearned income. When calculating a household's total income for *eligibility* for a Cash grant, all income is included. However, once a household is deemed eligible to receive a Cash grant, the administering agency will reduce by 20% the amount of income earned from employment in order to determine the *grant amount*.²³⁶ The effect is to reward those households that have earned income from employment.

Improper Counting of Lump Sum Annual Payments

Sometimes, households receive an annual pension or annuity in one large annual payment, rather than smaller monthly payments. The 21-22 LIHEAP STATE PLAN clearly gives the applicant the option to choose the most favorable time period to use in calculating income for LIHEAP eligibility – the past calendar month or a 12 month period.²³⁷ However, DHS will often count the annual payment as part of the household income, regardless of when that payment is received.

²³³ 21-22 LIHEAP STATE PLAN, at app. B § 601.31(2)(vii). See also 66 Pa C.S. § 1407 for general rules related to reconnection of service for regulated utilities.

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.* at app. B § 601.41(a)(2).

²³⁷ *See id.* at app. B § 601.83.

As a result, an eligible household will inappropriately be deemed ineligible and denied a LIHEAP grant or, if found eligible, that household will receive a lower Cash grant. Advocates should look out for this income counting practice and prepare to challenge it.

Refunds and Second Payments

Vendors receiving a LIHEAP grant must apply that grant to a customer's account within two program years.²³⁸ The two-year period ends no later than June 30th of the year *following* the year in which the grant was awarded.²³⁹ For example, if grants were awarded in the 2021-2022 program year, the two-year period to use those funds will end on June 30, 2023.

Any funds not used by the vendor or the grantee in that time period must be sent back to DHS.²⁴⁰ In addition, if an applicant is awarded a grant and then subsequently dies, changes vendor, or moves from the vendor's service area, then the vendor must refund to DHS any unexpended grant amounts.²⁴¹

A grantee can receive a second payment of these refunded amounts within that same two-year period if:

- the grantee's whereabouts are known,
- the grantee continues to reside in the Commonwealth, and
- where the grantee retains heating responsibility²⁴² or where the crisis for which benefits were authorized continues to exist."²⁴³

A vendor can sometimes receive an overpayment that is not the result of fraud, error, or misrepresentation by the applicant. In those situations, the error is considered an administrative error for which the applicant cannot be held responsible.²⁴⁴

Master Metering

Master metering is when a landlord or mobile home park owner receives utility service in his/her own name for a property in which multiple tenants live. This can present special challenges for tenants and their advocates. The premises may be sub-metered, or the landlord may pass along the utility costs to the tenants through a formula or calculation that assesses an energy use or heating charge to each tenant.

²³⁸ *Id.* at app. B § 601.46.

²³⁹ *See id.*

²⁴⁰ *Id.*

²⁴¹ *Id.* at app. B §§ 601.46(1), 601.65(1).

²⁴² *Id.* at app. B § 601.46(2).

²⁴³ *Id.* at app. B § 601.65(2).

²⁴⁴ *Id.* at app. B § 601.144(c).

Where the landlord passes along the utility costs through a specific fee or charge, the utility charge is **not** an undesignated portion of the rent. Some CAOs in past years have concluded that these tenants do not have a home heating responsibility as it is defined in the State Plan.²⁴⁵ While it may, on a superficial review, appear that the tenant is ineligible for LIHEAP that conclusion may not be accurate. DHS has clarified in previous years that “Households that are renting with heat included and have a specific portion of their rent used for their heating costs are considered to have a heating responsibility and are therefore eligible for benefits.”²⁴⁶

Landlords are not approved vendors for the purposes of LIHEAP.²⁴⁷ This means that the tenant here is making a utility payment to a non-vendor, and will qualify for a direct grant.²⁴⁸ The Plan specifically excludes landlords from the definition of vendors and precludes landlords from receiving a vendor payment.²⁴⁹ DHS may also provide Crisis grants directly to tenants or mobile home park residents in master-meter situations based upon a case by case review.²⁵⁰ “If DHS determines that crisis benefits cannot be paid directly to the vendor, DHS pays the crisis benefit to the applicant as reimbursement after verification of the purchase has been provided.”²⁵¹



Advocacy Tip: If tenants or mobile home park residents are denied LIHEAP Cash grants, advocates should demonstrate the applicant does have a home heating responsibility by showing that a failure to make the required payments will leave the tenant without heat.

Conclusion

LIHEAP provides critical home heating benefits to low income families. We hope that this manual is helpful in providing information and advocacy suggestions in securing those critical dollars for your clients. We welcome your questions and feedback, and if we at the Pennsylvania Utility Law Project can be of any assistance in your work, do not hesitate to contact us.

²⁴⁵ See *id.* at app. B § 601.31(2)(i)(B) (2016).

²⁴⁶ See *id.* at app. B § 601.3 (defining household).

²⁴⁷ See *id.* at app. B § 601.44(c).

²⁴⁸ See *id.* at app. B § 601.44(b).

²⁴⁹ *Id.* at app. B § 601.44(c).

²⁵⁰ *Id.* at app. B § 601.44(b).

²⁵¹ *Id.* at app. B § 601.64.

APPENDICES

Appendix A: 2021-2022 Pennsylvania LIHEAP Income Guidelines

Appendix B: Online Resources and Forms

Appendix C: Glossary of Common Terms and Abbreviations

Appendix D: 2021-2022 LIHEAP County Coordinator Telephone Numbers & E-mail Addresses

Appendix E: 2021-2022 LIHEAP Application (English and Spanish)

Appendix F: LIHEAP Vendor Agreements (Liquid and Solid Fuel, and Utility)

Appendix A: 2021-2022 Pennsylvania LIHEAP Income Guidelines

Household Size	Household Income 150% FPL for Cash & Crisis
1	\$19,320
2	\$26,130
3	\$32,940
4	\$39,750
5	\$46,560
6	\$53,370
7	\$60,180
8	\$66,990
9	\$73,800
10	\$80,610
For each additional person add	\$ 6,810

* Eligibility information from <https://www.dhs.pa.gov/Services/Assistance/Pages/LIHEAP.aspx>

Appendix B: Online Resources and Forms

Attached are Application Forms (HSEA-1 and HSEA-1S) and the LIHEAP Vendor Agreement.

Online Resources:

DHS's Heating Assistance Web Page	PA Department of Human Services	https://www.dhs.pa.gov/Services/Assistance/Pages/LIHEAP.aspx
2022 Final State Plan for PA LIHEAP	PA Department of Human Services	https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance LIHEAP/2022%20LIHEAP%20State%20Plan FINAL%20Approved.pdf
COMPASS	PA Department of Human Services	www.compass.state.pa.us
LIHEAP Cash Benefit Table for PA	PA Department of Human Services	https://www.humanservices.state.pa.us/LIHEAP_BENEFIT_TABLE/
LIHEAP Clearinghouse	U.S. Dept. of Health & Human Services Admin. For Children & Families	https://liheapch.acf.hhs.gov/
HHS LIHEAP Homepage	U.S. Dept. of Health & Human Services Admin. For Children & Families	https://www.acf.hhs.gov/ocs/programs/liheap/about
NEADA	National Energy Assistance Directors Association	http://neada.org/
PA PUC Homepage	Pa Public Utility Commission	https://www.puc.pa.gov/
DHS LIHEAP Handbook	PA Department of Public Welfare	http://services.dpw.state.pa.us/oimpolicymanuals/liheap/LIHEAP_Handbook.htm
PULP	Pennsylvania Utility Law Project	http://www.pautilitylawproject.org/

DHS Online Forms:*

<u>HSEA 1 - LIHEAP Application Form (English)</u>	Application - English
<u>HSEA 1-S - LIHEAP Application Form (Spanish)</u>	Application - Español
<u>HSEA 18 – LIHEAP English Brochure*</u>	LIHEAP Brochure - English
<u>HSEA 18-S– LIHEAP Brochure Spanish</u>	LIHEAP Brochure- Español
<u>HSEA 4*</u>	Energy Assistance Affidavit
<u>HSEA 4-S</u>	Energy Assistance Affidavit (Español)
<u>HSEA 6*</u>	Zero Income Statement
<u>HSEA 6-S</u>	Zero Income Statement (Español)
<u>PWEA 32</u>	Request for Additional Information
<u>PWEA 32-S</u>	Request for Additional Information (Español)
<u>PWEA 35</u>	LIHEAP Computation Worksheet
<u>HSEA 36*</u>	Landlord Statement

<u>HSEA 36-S</u>	Landlord Statement (Español)
<u>HSEA 40</u>	DCED/DHS Crisis Interface Referral Form
<u>PWEA 41</u>	Low Income Home Energy Assistance Program (LIHEAP) Electronic Funds Transfer Application Form
<u>PWEA 51</u>	Conservation Tips to Reduce Energy Usage
<u>PWEA 51-S</u>	Conservation Tips to Reduce Energy Usage (Español)

***These are the forms or publications available and online as of October 18, 2021. Forms are available in the following languages: English, Spanish, Chinese, Russian , Vietnamese, Arabic, and Cambodian.**

Appendix C: Glossary of Common Terms and Abbreviations

CAO – County Assistance Office are local offices where Pennsylvanians can access a range of services for themselves and their families from professionally trained staff members. CAOs are often but not always the LIHEAP administering agency.

CAP – Customer Assistance Programs assist eligible utility customers who are having difficulty paying their utility bills through provision of a special rate and the forgiveness of past debts by the utility. CAP customers must comply with program responsibilities in order to remain eligible for CAP.

Cash Grant (Component) – A onetime annual grant to assist eligible households with their regular heating costs. The amount of the grant is based upon household income, number of household members, fuel type, and geographic location.

COMPASS - COMPASS is the name of the website where individuals can apply for LIHEAP, the SNAP program, and many other services that may benefit low income households.

Crisis Grant (Component) – Provides a grant(s) to resolve imminent and current heating-related emergencies, including utility shutoffs, malfunctioning heat sources, depleted fuel, and other concerns.

DCED – Department of Community and Economic Development, which administers the Crisis Interface/Weatherization Assistance Program Component.

DHS – Department of Human Services (formerly the Department of Public Welfare) administers the LIHEAP program and other programs in Pennsylvania that are designed to assist low income households, including Medical Assistance, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance to Needy Families (TANF).

FPG (FPL) – Federal Poverty Guidelines (Level) – A representation of the federal poverty measure, based upon household income, issued each year by the U.S. Department of Health and Human Services to assist agencies determine eligibility for certain benefits and programs. DHS uses FPG (FPL) to determine LIHEAP eligibility.

LIHEAP – Federally funded program designed to provide supplemental assistance to aid low income households afford the costs of energy, specifically residential heating, in the cold weather months.

Primary Fuel Type – The type of energy consumed by the primary heat source to create heat.

Primary Heat Source – The central heating system used most by the household or, if the residence is not centrally heated or the central heating system is inoperable, the heat source used most by the household.

PUC – The Pennsylvania Public Utility Commission provides oversight for a number of programs and policies implemented by utility companies operating within Pennsylvania, including CAP programs, and the approval of service termination.

PULP – The Pennsylvania Utility Law Project provides information, assistance, and advice about residential utility and energy matters affecting low income consumers.

Secondary Fuel Type – The source of energy that is necessary, in addition to the primary fuel type, to operate the primary heat source. For example, electricity is a secondary fuel type when it is necessary to enable the operation of an oil furnace when oil is the household’s primary heating source.

Supplementary Fuel – A source of energy that a household uses to provide heat in addition to the residence’s primary heat source.

SNAP – Supplemental Nutrition Assistance Program, formerly known as “food stamps,” is a program administered by the Department of Human Services, participants of which, if not already approved for LIHEAP, receive a minimal heating assistance benefit to maximize their Standard Utility Allowance for SNAP purposes.

SUA – Standard Utility Allowance refers to the fixed dollar amount for a household’s heating and utility expenses used in the calculation of shelter expenses for SNAP benefits.

Vendor – An agent or company that directly distributes home-heating energy or services. Vendors do not include landlords, hotel managers or proprietors, rental agents, energy suppliers or generators, or housing authorities.

Vendor Agreement – The Department of Human Services requires any fuel source vendor that wishes to participate in the LIHEAP program to complete and sign a contract known as a vendor agreement.

Weatherization Assistance Component (Crisis Interface) – This component addresses crises through repair or replacement of heating systems in cases of heating source malfunction or failure.

Winter Moratorium – Period from December 1st through March 31st that prohibits regulated gas and electric utilities from terminating residential service to households at or below 250% of the Federal Poverty Guidelines, unless granted specific permission by the Public Utility Commission.

Appendix D: County Coordinator Contact Information

County	LIHEAP Coordinator	Telephone Number	Email Address @pa.gov	Alternate Coordinator	Telephone Number2	Email Address @pa.gov
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				Sharon Hutfles	724-339-6815	shutfles@
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Chester	Bradley Canan	610-466-1111	bcanan@	Erica Dixon	610-466-1024	erdixon@
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Westmoreland				Jen Eicher	724-261-3556	jeeicher@

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