

TITLE 476  
NEBRASKA LOW-INCOME ENERGY ASSISTANCE PROGRAM

CHAPTER 1-000 INTRODUCTION

1-001 Legal Basis: The Nebraska Low-Income Energy Assistance Program (LIHEAP) is authorized by the Energy Policy Act of 2005, 42 U.S.C. §§ 8621-8630 and 45 C.F.R. § 96. ~~was established by Public Law 97-35, The Omnibus Budget Reconciliation Act of 1981, and reauthorized by Public Law 98-558, the Human Services Reauthorization Act.~~ The program is funded through ~~on an annual federal appropriations.~~ basis with federal funding as authorized by the Low Income Energy Assistance Act of 1981.

1-002 Purpose: LIHEAP helps low-income households stay safe and healthy by providing financial assistance to offset the costs of heating and cooling. LIHEAP particularly helps households that pay a high portion of household income for home energy to meet immediate home energy needs. ~~The purpose of the Nebraska Low Income Energy Assistance Program is to provide assistance to low-income households to offset the rising costs of home energy. The highest level of assistance must be furnished to those households which have the lowest incomes taking into account family size.~~

1-003 Administering Agency: The administering agency is the Nebraska Department of Health and Human Social Services (the Department).

1-004 Definitions:

Agency-Caused Overpayment means an overpayment caused by the Department's error or failure to take action.

Application Date means the date the Department receives a signed application or request to add LIHEAP to a household's current Economic Assistance case.

Available Funds means the amount of funding appropriated to the Department for LIHEAP for each federal fiscal year.

Cooling Season means June 1 through August 31 of each federal fiscal year.

Crisis Assistance means assistance intended to alleviate a crisis situation.

Crisis Situation means a household that is under immediate threat of loss of home energy because it has received a shut off notice, had utilities discontinued, lacks energy service delivery, or anticipates removal from a provider's budget plan.

Economically-Vulnerable Household means a household that is unprotected from increases in energy costs and therefore must use its own resources to meet energy cost increases.

Heating Season means October 1 through March 31 of each federal fiscal year.

Home Energy means a source of residential heating or cooling.

Household means a person or group of people living together as one economic unit for whom residential energy is customarily purchased in common or paid through rent.

Intentional Program Violation (IPV) means an action by a person to receive or attempt to receive benefits to which the person is not entitled by (1) making a false statement, either verbally or in writing; (2) concealing information; or (3) altering one or more documents.

Multi-Family Arrangement means a living situation where more than one household occupies a single structure or building and includes both communal living arrangements where residential energy is billed in common and apartments where residential energy is billed separately to each unit.

Overpayment means a payment of more than the amount a household is eligible to receive.

Overpayment Status means a household has received an Overpayment of more than \$100 and the Overpayment has not yet been fully repaid to the Department.

Program Year means October 1 through September 30.

Provider means utility or other household energy supplier.

Single-Family Arrangement means a living situation where one household occupies a single structure or building.

Underpayment means a payment of less than the amount a household is eligible to receive.

1-005 Outreach Services: The Department provides outreach services to potential clients, particularly those who are elderly, disabled, under age six, and migrant farm workers.

1-006 Program Funding: For each Program Year, the Department accepts and processes applications and crisis assistance requests according to the earliest Application Date until the Department determines that pending payments will exhaust the Available Funds for that Program Year. Upon making this determination, the Department will accept no more applications or crisis requests for that Program Year.

1-006.01 Excess Funding: If the Department determines that Available Funds for a Program Year will exceed pending payments, the Department will allocate to eligible households supplemental payments as determined by the Department.

~~1-004 Program Time Span: Applications for energy assistance for heating and cooling payments are accepted from the program implementation date, as announced. Applications are taken and processed until one of the following occurs:~~

- ~~1. It is apparent that the pending applications will exhaust the remaining funds. When this occurs, pending applications will be processed and benefits paid according to the earliest date of application, until the funds are totally exhausted; or~~
- ~~2. March 31 of each year for heating applications and August 31 of each year for cooling applications.~~

~~1-005 Client Rights: The client has the right to—~~

- ~~1. Apply. Anyone who wishes to request and/or apply for assistance must be given the opportunity to do so. No one may be denied the right to apply for LIEAP;~~
- ~~2. Reasonably prompt action on his/her application for assistance (see 476 NAC 2-003);~~
- ~~3. Notice of approval or denial of his/her application (see 476 NAC 5-002.04);~~
- ~~4. Appeal to the NDSS Director for a hearing on any action or inaction with regard to an application, the amount of the assistance payment, or failure to act with reasonable promptness. The appeal must be filed in writing within 90 days of the action or inaction;~~

5. ~~Have his/her information treated confidentially. The use or disclosure of information concerning recipients of the energy assistance program must be limited to purposes directly connected to the administration of assistance programs as provided in 45 CFR 205.50;~~
6. ~~Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, handicap, religion, or political belief;~~
7. ~~Have the program requirements and benefits fully explained;~~
8. ~~Be assisted in the application process by the person of his/her choice; and~~
9. ~~Referral to other agencies.~~

~~1-006 Prudent Person Principle: When the statements of the applicant are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker shall obtain additional verification before eligibility is determined. The applicant has primary responsibility for providing verification of information relating to eligibility. Verification may be supplied in person, through the mail, or from another source (as an employer). If it would be extremely difficult or impossible for the applicant to furnish verification in a timely manner, the worker shall offer assistance.~~

1-007 Fair Hearing for Dissatisfied Households

1-007.01 Opportunity for Fair Hearing: Every applicant for energy assistance has the right to appeal for a hearing on any action or inaction of the local office and to have the Director make a decision on the claim (see 465 NAC 2-001.02).

1-007.02 Informal Conference: Clients who are dissatisfied with the determination on their applications may request an informal conference with the local office administrator or a designated representative before requesting a fair hearing. The local office administrator or designated representative shall give a written decision within ten days of the request and send copies of the decision to the claimant and to the Central Office.

1-008 Outreach Services: Nebraska Department of Social Services shall provide outreach services to potential clients. The greatest effort is given to serving persons who are—

1. Elderly;
2. Ill or bedridden;
3. Handicapped;
4. Children age five and younger; and
5. Migrant workers.

Application sites are established throughout the various communities in Nebraska in addition to the local offices. This assures accessibility to the greatest number of applicants and minimizes the travel required by the applicant. Outreach attempts to use familiar neighborhood surroundings to encourage the widest participation.

All types of media coverage must be used to ensure community awareness of the program. Public service announcement spots must be developed for television and radio coverage. Regular press releases are prepared and circulated to inform the public of any program changes, and of the program's availability.

1-008.01 Application Sites: The District Administrators shall contact the Community Action Agencies and Social Security Offices in regard to taking applications in their area.

1-008.02 Media Coverage: The Central Office is responsible for statewide press releases and public service announcement spots. The local office is responsible for local press releases and public service announcement spots.

1-008.03 Additional Information: The Central Office shall—

1. Inform all public assistance clients by including information stuffers with their checks;

- ~~2. Furnish pamphlets and posters for use by the local offices; and~~
- ~~3. Send pamphlets and a letter explaining the program to the following agencies:-~~
  - ~~a. Department of Labor;~~
  - ~~b. Department of Energy;~~
  - ~~c. Department of Health;~~
  - ~~d. Department on Aging;~~
  - ~~e. Mental Retardation Offices;~~
  - ~~f. Legal Aid Offices;~~
  - ~~g. Commission for the Hearing Impaired;~~
  - ~~h. Migrant Farmworkers;~~
  - ~~i. Red Cross Offices; and~~
  - ~~j. Green Thumb Agencies.-~~

~~1-008.04 Local Office Outreach: The local offices shall report to the Central Office regarding their outreach activities.-~~

~~1-008.04A Application Sites: The local offices shall contact the following agencies located in their areas and ask that they provide information regarding the program and take applications:-~~

- ~~1. Senior Centers/Sites;~~
- ~~2. Veteran's Offices;~~
- ~~3. Indian Centers;~~
- ~~4. Tribal Centers;~~
- ~~5. League of Human Dignity Offices; and~~
- ~~6. Vocational Rehabilitation Offices.-~~

~~1-008.04B Media Coverage: The local offices shall contact and keep the local media informed with press releases and/or public service announcements. (See 476 NAC 1-008)~~

~~1-008.04C Additional Information: The local office shall:~~

- ~~1. Contact local organizations including clinics, hospitals, pharmacies, grocery stores, banks, utility companies, Social Security offices, churches, Community Action Agencies, Chambers of Commerce, Visiting Nursing Association, Legal Aid Offices, self help groups, family planning centers, Big Brother Big Sister organizations, day care centers, Head Start Centers, Boy Scouts and Girl Scouts organizations, Women, Infants and Children (WIC), unemployment offices, schools, and family counseling centers;~~
- ~~2. Provide in-home outreach when applicable for handicapped and other home-bound clients;~~
- ~~3. Place pamphlets and posters in local organizations throughout the county;~~
- ~~4. Give the phone number of the local social services office to utility companies so utility customers may call the local office regarding energy assistance; and~~
- ~~5. Provide transportation through Social Services and other local resources.-~~

1-009 Definition of Terms: As used in this title unless the context indicates otherwise, the following definitions will apply.

Application Date — The date a properly signed application is received.

Disabled — At the time of application, having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.

Economically Vulnerable Household — A household which must pay some part of its energy cost increases from its own resources, either through increases in rent or utility bills.

Elderly — Age 60 or older (for heating assistance purposes).

Energy Crisis Assistance — Assistance required because of weather related and supply shortage emergencies.

Home Energy — A source of heating or cooling in residential dwellings, including electricity, fuel oil, stove oil, gas, coal, wood, kerosene, propane, or other fuel.

Household — An individual or group of individuals living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

Multi-Family Arrangement — A living situation with more than one family. The structure may be divided into separate units (e.g., an apartment or duplex) or may be a single structure with more than one family applying separately.

Non-Public Assistance (non-PA) Household — A household in which not all members are receiving categorical assistance.

Public Assistance (PA) Household — A household in which every member is receiving categorical assistance. This does not include medical assistance with excess income cases or food stamp households.

Priority — Giving certain households special treatment relating to ease of application or access to assistance, or timing of benefits.

Single Family Arrangement — A living situation where an individual or group of individuals are living. To qualify as a single family arrangement, a group of individuals must be living together as one economic unit, customarily purchase residential energy in common, and apply as a single household.

Young Children Household — A household with children age five and younger.

1-010 Incorrect Payments

~~1-010.01 Underpayments: All underpayments must be corrected.~~

~~1-010.02 Overpayments: The agency must take all reasonable steps necessary to promptly correct all client caused overpayments. The worker shall record in the case record all steps taken to recoup the overpayment.~~

~~The worker shall first send a demand letter, giving the client the choice of reimbursing the total overpayment at once or making monthly payments.~~

~~When the evidence clearly establishes that a client willfully withheld information which resulted in an overpayment, the IM worker shall refer the case to the Special Investigation Unit, Central Office; or in the Omaha Office, to the Omaha Special Investigation Unit. Once a case has been referred to the Special Investigation Unit, the worker shall take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker must complete normal case actions.~~

~~If an overpayment is not recouped by the Special Investigation Unit, the local office shall keep a listing of cases with overpayments. The overpayment must be deducted from any future LIEAP benefits.~~

~~1-010.02A Agency Caused Overpayments: Agency caused overpayments are not recouped. The worker shall note in the case record that an overpayment occurred but was waived because it was agency caused.~~

~~If an overpayment occurs as the result of both an agency and client error, the overpayment must be recouped. For example, if the worker guarantees payment to the provider but neglects to put the FID on the payment line so the payment goes to the client who keeps the money, the worker shall recoup the overpayment.~~

~~1-010.03 Monitoring Payments: The supervisor shall monitor the accuracy of determinations and report common errors to Public Assistance and Food Programs, Central Office.~~

1-011 Case Records: The following forms are used in LIEAP. Instructions for and examples of these forms are in the Public Assistance Forms Manual.

<u>Form</u>	<u>Form Title</u>	<u>PAF Reference</u>
ASD-17	Question Referral Form	1-2
ASD-63	Referral for Investigation	1-8
DA-100	Application for Assistance	4-5
DA-100A	Supplement to the Application for Assistance	4-6
FA-29	Warrant Information Request	6-2



<u>Form</u>		
<u>Number</u>	<u>Form Title</u>	<u>PAF Reference</u>
FA 62	Maintenance Assistance Cancellation/Refund	
	—Transmittal	6-3
IM 7	Income Computation Worksheet	9-11
IM 8	Notice of Finding	9-12
IM 12	NLIEAP Refunds/Cancellations	9-16
IM 29	Nebraska Low Income Energy Assistance Program	
	—Application	9-34
IM 29B	Cooling Assistance Request	9-35
IM 52	Nebraska LIEAP Provider Certification	9-40
IM 55	Medical Request for Cooling	9-43

Case records must be retained for three years from the date of application and are subject to state and federal audit.

CHAPTER 2-000 APPLICATION AND ELIGIBILITY Application

2-001 Completion of Application Form: To apply for LIHEAP, a ~~All~~ Households must have an opportunity to complete an agency-approved application or ask the Department to add a request for LIHEAP to the Household's current Economic Assistance case, using Form IM-29, "Nebraska Low Income Energy Assistance Program Application," or Form EA-117, "Application for Assistance." Agency staff must offer assistance in completing the application form or obtaining documentation if applicants need help.

{Effective 6/28/11}

2-002 (Reserved)

2-001.013 Approval or Denial of Application Processing: The Department Health and Human Services staff must make a determination of determine eligibility within 45 ~~30~~ days of the Application Date. This deadline may be extended if receipt of the application, unless the delay is caused by the Household fails to provided requested documentation within the timeframe specified to do so. ~~'s lack of cooperation in providing necessary and reasonable evidence.~~

2-001.02 Approval: An approved application establishes Household eligibility for the remainder of the Program Year, notwithstanding changes in Household income or composition.

2-001.03 Re-Application: To re-apply after a denial, a Household must submit a new application or request.

2-002 Eligibility: To qualify for LIHEAP, a Household must:

1. Be considered an Economically-Vulnerable Household;
2. Meet income guidelines according to Household size;
3. Meet citizenship and residency requirements; and
4. Not otherwise be disqualified or ineligible.

2-002.01 Income Guidelines: The total annual income of a Household may not exceed 130% of the federal poverty level. For purposes of calculating and treating income for LIHEAP eligibility, the Department applies the rules and regulations from the Supplemental Nutrition Assistance Program, Title 475 NAC.

2-002.02 Citizenship and residency: For purposes of determining LIHEAP eligibility, the Department applies the residency and citizenship/alien status requirements from the Supplemental Nutrition Assistance Program, Title 475 NAC. A person who does not meet the citizenship and residency requirements must be excluded from a Household for purposes of determining eligibility for LIHEAP.

2-002.03 Ineligibility A Household that includes a person who is ineligible under this section may still remain eligible for LIHEAP. Household size will be reduced by the number of ineligible Household members for purposes of determining eligibility and payments.

2-002.03A Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain Home Energy assistance in two or more states is ineligible for LIHEAP for ten years from the date of conviction.

2-002.03B Fleeing Felon: A person is ineligible for LIHEAP during any period in which the person is

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the person is fleeing; or
2. Violating a condition of federal or state probation or parole.

2-002.03C Intentional Program Violations: A person who commits an IPV is ineligible for LIHEAP as follows:

1. A person is ineligible for LIHEAP during the period the person is disqualified from receiving other Economic Assistance benefits due to a non-LIHEAP IPV.
2. A person who commits a LIHEAP IPV is ineligible as follows:
  - a. For a First IPV, the person becomes ineligible for any LIHEAP benefits for the remainder of the Program Year and the next full Program Year.
  - b. For a Second IPV, the person becomes ineligible for any LIHEAP benefits for the remainder of the Program Year and the next three full Program Years.
  - c. For a third (and any subsequent) IPV, the person becomes permanently ineligible for LIHEAP benefits.

2-003 Cooling Assistance: To qualify for cooling assistance, a Household must qualify for LIHEAP and include a Household member who:

1. Is a child under age six who receives ADC;
2. Is age 70 or older;
3. Has a severe illness or condition which is aggravated by extreme heat as verified by a medical statement signed by a licensed healthcare provider; or
4. Has received air conditioner from the Department within four years of the Application Date.

#### 2-004 Crisis Assistance

2-004.01 Eligibility: To qualify for Crisis Assistance, a Household must be eligible for LIHEAP, be in a Crisis Situation and have an unanticipated inability to pay Home Energy costs because within the most recent 90 days the Household has experienced:

1. An unanticipated medical or household expense;
2. A significant, permanent and involuntary loss of work hours, wages, or employment;
3. The departure of a primary wage earner;
4. The inability of a primary wage earner to work because of illness or injury;
5. A significant income loss because of the death of a Household member.

2-004.01A A Household may also be eligible for an unspecified crisis related to a loss of income or inability to pay as determined in the Department's discretion.

2-004.02 Time Limits for Crisis Assistance: For an eligible Household, the Department must provide Crisis Assistance to resolve the Crisis Situation:

1. within 48 hours of receiving the application, or
2. within 18 hours of receiving the application if the Household includes a Household member who uses a medical device that requires electricity or has a severe illness or condition which is aggravated by extreme heat as verified by a medical statement signed by a licensed healthcare provider.

2-004.03 Ineligibility

2-004.03A: A Household is ineligible for Crisis Assistance during any period a Household member is under a sanction for non-cooperation with Child Support Enforcement or the ADC - Employment First program

2-004.03B A Household is ineligible for Crisis Assistance to pay any bill incurred during any period a Household is in Overpayment Status.

2-004.03C A Household is ineligible for Crisis Assistance to pay any bill incurred during any period a Household member is under a sanction for an IPV.

2-004.04 Alternate Sources of Crisis Assistance: The Department must provide a client who is denied Crisis Assistance with information about potential alternate sources of assistance.

2-004.05. Deposit or Reconnect Fees: To qualify for assistance with a deposit or reconnect fee, the Household must be eligible for Crisis Assistance and must have received no deposit or reconnect assistance for the same fuel type within the previous 36 months unless extenuating circumstances exist in the Department's discretion.

2-005 Furnace or Air Conditioner Repair or Replacement Assistance:

2-005.01 To qualify for repair or replacement assistance for a furnace or central air conditioner in a home owned or being purchased by a Household, the Household must be eligible for LIHEAP heating (for furnace) or cooling (for air conditioning) assistance, provide documentation that emergency repair or replacement is necessary, provide estimates for the cost of repair or replacement as requested by the Department, and have received no repair or replacement assistance for a furnace or air conditioner within the previous 60 months unless extenuating circumstances exist as determined in the Department's discretion.

2-005.02 To qualify for assistance to purchase a window air conditioning unit, the Household must be eligible for cooling assistance, provide estimates for the cost of purchase as requested by the Department, and have received no assistance to purchase a window air conditioning unit within the previous 60 months unless extenuating circumstances exist as determined in the Department's discretion.

2-006 Notice to Household

3-004.01 Approval: When a Household is approved for assistance, the Department will send written notice indicating (1) that the Department has made a payment to a Provider on behalf of the Household or (2) the payment schedule by which the Department will make payment(s) directly to the Household.

3-004.02 Denial: When the department denies a Household's application or request, the Department will send to the Household written notice that states the reason for denial and notifies the Household of its right to appeal.

{Effective 6/28/11}

~~2-004 Referral for Weatherization: Households who have not received LIHEAP assistance are still eligible to receive weatherization if their income does not exceed 130 percent of the poverty guideline. The worker must refer every eligible household to the local community action agency for weatherization. The worker completes Form ASD-19, "Client Referral," and gives it to the client.~~

## CHAPTER 3-000 PAYMENTS

### 3-001 Types The Department makes the following types of LIHEAP payments:

1. Heating (during the Heating Season);
2. Cooling (during the Cooling Season);
3. Crisis Assistance (year-round); and
4. Supplemental, as determined by the Department based upon funding availability.

### 3-002 Payment Recipients

3-002.01 Provider The Department makes payment on behalf of an eligible Household directly to a Provider. To ensure payment, a Household must provide the Department with the applicable Provider name and account number.

3-002.01A If a Household disconnects service from a Provider that has received payment from the Department on the Household's behalf, and at the time of the disconnect the Household has a credit balance with the Provider, the Provider will refund the full credit balance to the Department. If the most recent payment by the Department to the Provider on behalf of the Household occurred before the current Program Year, the Department will remit the full credit amount to the Household. If the most recent payment by the Department to the Provider on behalf of the Household occurred during the current Program Year, the Department will remit to the Household the difference between the credit balance and the total amount of all payments by the Department to the Provider on behalf of the Household during the Program Year, if any.

3-002.02 Household Only if utilities are included in rent or a Provider cannot or will not receive electronic payments from the Department may the Department pay a Household directly.

3-002.02A Restrictions: A Household may not access LIHEAP funds, either by ATM withdrawal or point-of-sale purchase, from liquor stores, casinos, gambling casinos, gaming establishment, or any retail establishment that provides adult-oriented entertainment where performers disrobe or perform in an unclothed state for entertainment.

### 3-003 Payment Amounts and Requirements

3-003.01 Heating and Cooling Payments: The Department makes heating and cooling payments according to the tables published at 476-000-200 and 476-000-201 which are based upon the federal poverty level and the following factors:

1. Fuel type (if applicable);
2. Household income;
3. Household size; and
4. Whether the Household resides in a Single-Family Arrangement or a Multi-Family Arrangement.

The Department can redetermine a Household's payment level only if the Household experiences a change in composition or a significant change in income, and only if such change causes the payment level to increase.

3-003.01A Payment to Household for Propane, Fuel Oil, or Kerosene: When the Department makes payment directly to a Household for propane, fuel oil, or kerosene, it will make a payment for \$500 or less in one lump sum and more than \$500 in two equal installments over a two-month period.

3-003.01B Payment to Household for Electricity or Natural Gas: When the Department makes payment directly to a Household for electricity or natural gas, it will make a payment of \$150 or less in one lump sum and more than \$150 in two equal installments over a two-month period.

3-003.02 Crisis Assistance Payments: The Department makes Crisis Assistance payments for no more than the amount necessary to alleviate the Crisis Situation, up to \$500 per Program Year. If extenuating circumstances exist, the Department may authorize a Crisis Assistance payment for more than \$500. To remain eligible for future Crisis Assistance, a Household that receives a Crisis Assistance payment (including a deposit or reconnect fee payment) directly from the Department must provide the Department with verification that the Household has paid the Provider.

3-003.03 Furnace or Central Air Conditioner Repair or Replacement Assistance Payments: The Department may pay up to \$750 to repair or replace a central air conditioning unit. Before the Department can authorize payment, the Household must pay or arrange to pay the repair or replacement cost that exceeds the Department's portion and must provide the Department with receipts or a payment agreement. If extenuating circumstances exist, the Department may authorize repair or replacement assistance for more than \$750.

3-003.04 Window Air Conditioner Payments: The Department may pay for a window air conditioner unit. A Household that receives payment for a window air conditioning unit directly from the Department must provide the Department with a receipt that documents purchase of the unit or the Department will issue an Overpayment notice and seek repayment from the Household.

### 3-004 Incorrect Payments

3-004.01 Underpayments: The Department must correct any Underpayment upon discovery.

3-004.02 Provider Payee Errors: If the Department pays the wrong Provider on behalf of a Household, the Department must correct the error by seeking a refund from the wrongfully-paid Provider and paying the correct Provider.

3-004.03 Overpayments:

3-004.03A Agency-Caused Overpayments: The Department will not recoup Agency-Caused Overpayments.

3-004.03B Overpayments inadvertently caused by a Household or caused by an IPV are treated as follows:

1. The Department will take no action to recoup an Overpayment of less than \$100.
2. The Department will place a Household that has received an Overpayment of \$100 or more into Overpayment Status until the Overpayment has been fully recouped. The Department will recoup an Overpayment by reducing LIHEAP benefits of a Household in Overpayment Status.



## ELIGIBILITY FACTORS

~~3-001 Qualifying for Energy Assistance Payments: To qualify for energy assistance payments a household must—~~

- ~~1. Be economically vulnerable (see 476 NAC 3-001.01);~~
- ~~2. Have resources within program limits (see 476 NAC 3-001.02);~~
- ~~3. Have income that does not exceed the income guidelines according to household size (see 476 NAC 3-001.03B);~~
- ~~4. Meet the requirements of the Immigration Reform and Control Act of 1986 (see 476 NAC 3-001.04); and~~
- ~~5. Meet the requirements of alien eligibility (see 476 NAC 3-001.05).~~

~~There will be a one-time determination for eligibility and payment amount in each heating season program year. Once a benefit has been determined, adjustments in the payment amount for changes in income, etc. will not be made. Any further payments made must be considered under the crisis assistance criteria (see 476 NAC 5-007).~~

~~If a household is denied energy assistance and applies at a later date, a new application must be taken and determination made based on current information.~~

~~Only one application per household may be approved.~~

~~3-001.01 Economic Vulnerability: The local worker shall determine eligibility for energy assistance with regard to economic vulnerability.~~

~~3-001.01A Households Considered Economically Vulnerable: The following households are considered economically vulnerable:~~

- ~~1. Homeowners;~~
- ~~2. Renters whose utilities are included in rent;~~
- ~~3. Renters who pay their own utilities; and~~
- ~~4. Public housing tenants who are responsible for paying a surcharge for their utilities or are responsible for paying their own heating bills during the heating season or their own cooling bills during the cooling season.~~

~~3-001.01B Households Not Considered Economically Vulnerable: Tenants who are protected from increases in energy costs are not eligible for energy assistance. The following households are not considered economically vulnerable:~~

- ~~1. Individuals who reside in adult boarding facilities, intermediate care facilities, residential care facilities or skilled nursing facilities and who do not pay a vendor directly for energy costs;~~
- ~~2. Individuals residing in room only or room and board situations;~~

3. ~~Individuals who reside in public subsidized housing, unless they are responsible for their utility costs.~~

~~3-001.02 Resource Maximums: The maximum resource limit for any size household is \$5,000.~~

~~3-001.02A Public Assistance (PA) Households: Reverification of resources for PA and food stamp households is not necessary since resources have already been verified for these programs and are within the maximum limits.~~

~~3-001.02B Non-Public Assistance (Non-PA) Households: The applicant's declaration of resources is accepted. Verification is not necessary unless the statements of the applicant are incomplete, unclear, inconsistent, or unless other circumstances in the particular case indicate to a prudent person that further inquiry should be made.~~

~~3-001.02C Assets Counted as Resources~~

~~3-001.02C1 Definition of Available Resources: For the determination of eligibility, available resources include cash or other liquid assets or any type of real or personal property or interest in property that the client owns and may convert into cash to be used for support and maintenance.~~

~~3-001.02C2 Unavailability of Resource: Regardless of the terms of ownership, if it can be documented in the case record that the resource is unavailable to the client, the value of that resource is not used in determining eligibility. In evaluating the availability of benefit funds, such as funds raised by a benefit dance or auction, the worker shall determine the purpose of the funds and if the client has access to them.~~

~~3-001.02C3 Resources Included: The following assets are counted as resources:~~

- ~~1. Cash;~~
- ~~2. Checking accounts;~~
- ~~3. Savings accounts;~~
- ~~4. Certificates of deposit or time certificates;~~
- ~~5. Stocks and bonds;~~
- ~~6. Credit Union accounts;~~
- ~~7. Contents of safe deposit boxes; and~~
- ~~8. Land contracts.~~

~~3-001.02C3a Valuation of Resources: The equity value of non-exempt resources is used in determining eligibility.~~

3-001.02C3b Treatment of Equity as a Resource: If it belongs to a member of the household and is available, the equity value of the following resources is counted:

1. Boats, utility trailers, recreational vehicles, etc.;
2. Airplanes; and
3. All motor vehicles other than the primary vehicle.

3-001.02C3c Land Contracts: A land contract, or real estate contract of sale, is considered a resource to the seller of the property if the contract can be sold. In determining the value of the contract, the worker and/or the client determines the salability of the contract and the resulting value. To determine the salability of the contract, the worker and/or client shall contact at least two financial authorities, such as bankers, to determine if the contract is salable. Salability of the contract is directly affected by the terms of the contract, particularly the rate of interest under which the contract was drawn up. If the contract is determined to be salable, the net value of the contract becomes the value at which it could be sold—usually at a substantial discount of the actual value in order to yield a reasonable profit to the investor—minus encumbrances, etc., against the property.

If it is determined and documented that the contract is not salable, the contract is not considered an available resource to the client.

Any income received from a land contract is considered unearned income to the client.

3-001.02C4 Resources Excluded: Disregarded income is also disregarded as a resource unless there is regulation stating otherwise. In addition, the following assets are not counted as resources:

1. One motor vehicle (vehicle with the greatest equity);
2. Burial lots, trusts, and contracts;
3. Savings up to \$3,000 identified for burial expenses (for individuals age 60 or older who do not have an irrevocable burial trust);
4. Life estates in real property;
5. Trust or guardianship funds;
6. Tax credits;
7. The home and surrounding property which is not separated from the home by intervening property owned by others. The worker shall note that
  - a. Public rights of way, such as roads which run through the surrounding property and separate it from the home, do not affect the exemption of the property.
  - b. The home and surrounding property remain exempt when temporarily unoccupied for reasons of employment, training, illness, or not habitable due to disaster, if the household intends to return.
  - c. Households that currently do not own a home, but own a lot on which they intend to build or are building a permanent home, are entitled to receive an exclusion for the value of the lot and, if it is partially completed, for the home;

- ~~8. Household goods, such as furniture;~~
- ~~9. Personal effects, including all clothing and jewelry;~~
- ~~10. The cash value of life insurance policies and pension funds, except for Keogh and IRA plans which involve no contractual relationship with individuals who are not household members;  
Note: When counting IRA or Keogh plans, include the total cash value of the account or plan minus the amount of the penalty (if any) that would be assessed for the early withdrawal of the entire amount in the account or plan.~~
- ~~11. Property which annually produces income consistent with its fair market value, even if it is only used on a seasonal basis;~~
- ~~12. Property deemed essential to the employment or self-employment of a household member, or undocumented alien or disqualified person whose resources are being counted as part of the household's resources, such as farm land, rental homes, and work-related equipment (e.g., the tools of a tradesman or the machinery of a farmer);  
Exception: The worker shall count a rental home which is used by the household for vacation purposes at some time during the year as a resource unless excluded because it produces income consistent with its fair market value.~~
- ~~13. Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with the fair market value of the land or buildings;~~
- ~~14. The value of property sold under an installment contract or held as security in exchange for a purchase price consistent with the fair market value of that property;~~
- ~~15. Any government payments such as, but not limited to, Individual and Family Grant (IFG) payments and Small Business Administration (SBA) loans when used for the restoration of a home damaged in a disaster. The household is subject to a legal sanction if the funds are not used as intended;~~
- ~~16. A business bank account provided the account is clearly separated from the household's personal bank account;~~
- ~~17. Land that can be sold only with the approval of the Bureau of Indian Affairs or Indian lands held jointly with the tribe;~~
- ~~18. Stocks, inventories, and supplies required by a self-employed individual to produce his/her income; and~~
- ~~19. An Individual Development Account (an account set up for postsecondary education, purchase of a client's first home, or establishment of a business).~~

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{Effective 8/2/2000}

~~3-001.02D Determination of Ownership of Resources: A resource which appears on record in the name of a client must be considered belonging to the client.~~

~~3-001.02D1 Jointly Owned Resources: As a general rule, the words and/or or or appearing on a title or other legal contract denote joint tenancy. This means that either owner(s) could sign and turn the resource to cash without the other; therefore, the total resource is considered available to either owner(s).~~

~~The term and generally refers to "tenancy in common." This means that each owner holds an undivided interest in the resource without rights of survivorship to the other owner(s). Only the proportionate share based on the number of owners of the resource is available to each owner.~~

~~If the worker substantiates that the client is not the true owner of a resource, it is permissible to allow the client to remove his/her name from the title of ownership in order to reflect true ownership.~~

### 3-001.03 Income Guidelines for Eligibility

~~3-001.03A Public Assistance Households: It is not necessary to verify the income of a public assistance household.~~

~~3-001.03B Non-Public Assistance Households: The total annual income of non-public assistance households qualifying for energy assistance payments must not exceed the income guidelines according to size of the household. The income limits are based on the federal poverty guidelines (see 476-000-202), with a minimum of 110 percent of FPL.~~

~~To determine who is included in the household, see 476 NAC 5-001.01.~~

~~3-001.04 Legalization of Alien: The Immigration Reform and Control Act of 1986 (P.L. 99-603) allows certain aliens to apply for legal residence. Individuals who were able to prove that they entered the United States before January 1, 1982, and had resided continuously in the country since that date were allowed to apply for legal resident status. Those aliens who were granted either temporary or permanent resident status are not eligible for Energy Assistance if they were granted lawful status under Section 245A or 210A. These individuals would have been issued either-~~

- ~~1. I-688 (Temporary Resident Card) for lawful temporary residents; or~~
- ~~2. I-551 (Resident Alien Card or "Green Card") for lawful permanent residents.~~

~~For five years from the date of status adjustment to temporary resident, these individuals are ineligible for Energy Assistance.~~

~~Exception: If the alien is receiving AABD or has been given status as a Special Agricultural Worker, s/he does meet citizenship requirements for Energy Assistance.~~

~~3-001.04A Mixed Household: If the household consists of eligible and non-eligible aliens, the worker shall-~~

- ~~1. Take the income for the entire household;~~
- ~~2. Divide by the number of household members; and~~
- ~~3. Multiply this figure by the number of eligible household members.~~

~~The resulting figure is the income used to determine if the household qualifies for Energy Assistance.~~

3-001.05 Eligibility of Aliens:

3-001.05A Ineligible Aliens: ~~The following aliens are ineligible:~~

- ~~1. Undocumented individuals;~~
- ~~2. Individuals who would otherwise be considered Permanently Residing Under Color of Law; and~~
- ~~3. Temporary residents, such as individuals entering under student visas, etc.~~

3-001.05B Aliens Entering After August 22, 1996: ~~The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) prohibits aliens who entered the U.S. on or after August 22, 1996, from receiving Energy Assistance unless the alien is-~~

- ~~1. A refugee admitted to the U.S. under section 207 of the Immigration and Nationality Act (INA);~~
- ~~2. An asylee under section 208 of INA;~~
- ~~3. An alien whose deportation is withheld under section 243(h) of INA;~~

4. ~~Admitted to the U.S. for permanent residence under INA and has worked 40 qualified quarters;~~  
~~Note: A qualifying quarter is a calendar quarter that qualifies for coverage under Title II of the Social Security Act (eligible for withholding of Social Security). The qualified quarter may have been worked by the alien, by the parent when the alien was under age 18 or by a spouse of the alien during their marriage. After December 31, 1996, no qualifying quarters can be credited to the alien if the individual, parent, or spouse of the alien in the previously listed circumstances received any federal means tested public benefit during the quarter.~~
5. ~~A refugee from Cuba or Haiti who was admitted under Section 501(e)(2) of the Refugee Education Assistance Act of 1980;~~
6. ~~A veteran who is on active duty or has been honorably discharged and his/her spouse and unmarried dependent child(ren);~~
7. ~~A refugee who entered the U.S. before April 1, 1980, and was granted conditional entry; and~~
8. ~~An alien who is paroled into the U.S. under Section 212(d)(5) of INA for a period of at least one year.~~

~~All other aliens are prohibited from receiving assistance for five years from their arrival.~~

~~3-001.05B1 Deeming After Five Year Prohibition: After five years an alien may receive assistance if s/he meets program eligibility requirements. If the alien has a sponsor, all income of the sponsor is counted in determining financial eligibility for the alien (with no allowance for the needs of the sponsor and his/her family).~~

~~The sponsor's income is deemed until the alien becomes a citizen or has worked for 40 qualifying quarters.~~

~~3-001.06 Disqualification for Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain energy assistance in two or more states is ineligible for energy assistance for ten years from the date of conviction. Only the individual convicted of the misrepresentation is ineligible; other members of the family or household may receive benefits.~~

~~3-001.07 Ineligibility of Fleeing Felon: An individual is ineligible for energy assistance during any period in which the individual is -~~

1. ~~Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or~~
2. ~~Violating a condition of federal or state probation or parole.~~





## CHAPTER 4-000 INCOME TREATMENT

4-001 Income Considered: In determining eligibility, any cash benefit received or available to the person is considered income, including money received from wages, businesses, property rentals, pensions, benefits, and contributions. Income does not include cash paid from one family to another toward a combined shelter obligation. Income considered must be received and actually available for use by the unit or individual.

4-001.01 Earned Income: Earned income is money received from wages, tips, salary, commissions, profits from activities in which an individual is engaged as a self-employed person or as an employee, or items of need received at no cost in lieu of wages.

Earned income also includes earnings over a period of time for which settlement is made at one given time, as in the instance of farm crops or poultry, etc. These earnings are prorated for the same number of ensuing months as was included in the earning period.

Picket pay and strike pay are considered earned income. Work study for a graduate student or a student working for a second degree is also considered earned income.

4-001.01A Self-Employment Income: A self-employed person is defined as one who is a sole proprietor, an independent contractor, a member of a partnership, or otherwise in business for him/herself (this includes farm income). Persons in self-employed households are allowed operating expenses as disregards.

4-001.01A1 Operating Expenses: Operating expenses related to, and necessary for, the production of goods or services are deducted from gross income. Operating expenses include—

1. Cost of goods sold;
2. Advertising;
3. Bad debts from sales or services;
4. Bank service charges;
5. Car and truck expenses;
6. Commission;
7. Employee benefit programs;
8. Freight/shipping costs;
9. Insurance;
10. Interest on business indebtedness;
11. Laundry and cleaning;
12. Legal and professional services;
13. Office supplies and postage;
14. Rent on business property;
15. Repairs and maintenance;
16. Supplies;
17. Utilities and telephone; and
18. Wages.

4-001.01A2 Operating Expenses - Farm Income: The following expenses related to farm income are considered operating expenses:

1. ~~Cost of goods sold;~~
2. ~~Cost of labor;~~
3. ~~Repairs and maintenance;~~
4. ~~Interest;~~
5. ~~Rent of farm, pasture;~~
6. ~~Feed purchased;~~
7. ~~Seeds, plants purchased;~~
8. ~~Fertilizers, lime, and chemicals;~~
9. ~~Cost of machines leased;~~
10. ~~Supplies purchased;~~
11. ~~Breeding fees;~~
12. ~~Veterinary fees, medicine;~~
13. ~~Gasoline, fuel, or oil;~~
14. ~~Storage, warehousing;~~
15. ~~Insurance;~~
16. ~~Utilities;~~
17. ~~Freight, trucking;~~
18. ~~Conservation expenses;~~
19. ~~Land clearing expenses;~~
20. ~~Employee benefit programs;~~
21. ~~Real estate and personal property taxes on farm business assets; and~~
22. ~~Social Security taxes paid by a farmer to match what was required to be withheld from his/her employee's wages.~~

4-001.01A3 Operating Expenses Not Allowed: The following expenses are not allowed as operating expenses:

1. ~~Amortization payments on the principal of loans;~~
2. ~~Depreciation;~~
3. ~~Dues and publications;~~
4. ~~Pension and profit-sharing plans and retirement funds for the employer;~~
5. ~~Personal business expenses, such as union dues, training courses, etc.~~
6. ~~Personal transportation;~~
7. ~~Purchase of capital equipment;~~
8. ~~Business-related entertainment expenses;~~
9. ~~Federal income taxes;~~
10. ~~Estate and gift taxes;~~

- \_\_\_\_\_ 11. Taxes assessed to pay for improvements such as paving and sewers;
- \_\_\_\_\_ 12. Taxes on home or personal property;
- \_\_\_\_\_ 13. Other taxes not related to a farm or business; and
- \_\_\_\_\_ 14. Depletion.

4-001.01B Income from Boarder: Income received from a boarder is considered earned income for the household. The boarder is not counted in the household size.

4-001.01C Offset of Earnings: If a household has a combination of farm and regular earned income, the regular earnings may be offset with a loss from the self-employment or farm operation. See PAF 13-1 for completion of the Self-Employment and Farm Income Worksheet.

4-001.02 Unearned Income: Unearned income is any cash benefit that is not the direct result of labor or services performed by the individual as an employee or a self-employed person. Unearned income includes, but is not limited to:

- \_\_\_\_\_ 1. Retirement, Survivors, and Disability Insurance (RSDI);
- \_\_\_\_\_ 2. Supplemental Security Income (SSI);
- \_\_\_\_\_ 3. Railroad Retirement;
- \_\_\_\_\_ 4. Public Assistance;
- \_\_\_\_\_ 5. Veteran's or military service benefits;
- \_\_\_\_\_ 6. Unemployment compensation or disability insurance benefits;
- \_\_\_\_\_ 7. Disability benefits paid by the employer (this does not include sick leave);
- \_\_\_\_\_ 8. Worker's compensation;
- \_\_\_\_\_ 9. Child, spousal, and cash medical support;
- \_\_\_\_\_ 10. Voluntary contributions;
- \_\_\_\_\_ 11. Gifts;
- \_\_\_\_\_ 12. Lease income;
- \_\_\_\_\_ 13. Annuities;
- \_\_\_\_\_ 14. Pensions, or returns from investments or securities in which the individual is not actively engaged;
- \_\_\_\_\_ 15. Civil service benefits;
- \_\_\_\_\_ 16. Training stipends;
- \_\_\_\_\_ 17. Income from a life estate in real property (determine the total cost of operation and deduct from gross income);
- \_\_\_\_\_ 18. Income from securities and investments;

19. Any portion of a grant, scholarship, or graduate assistantship not used for items such as tuition, books, fees, equipment, special clothing needs, transportation to and from school, child care services necessary for school attendance, etc. Transportation costs are allowed at 24 cents per mile if the client uses private transportation; and
20. Income in excess of \$10 per month per individual from estates and trusts, dividends, interest, and royalties.

~~4-001.03 Income Considered Exempt:~~ Certain income items are excluded from household income for any household applying for benefits under the Low Income Energy Assistance Program. All other income not described in 476 NAC 4-001.03 ff. is considered in establishing total gross income for the non-public assistance household.

~~4-001.03A Cash Over Which the Household Has No Control:~~ The following cash payments are excluded from household income:

1. Reimbursement for expenses incurred in connection with employment. This exclusion refers only to reimbursement, such as mileage for job-related travel expenses, etc., and is not to be interpreted to allow for expenses of producing income as income exclusions; and
2. Reimbursements for medical expenses, such as Medicare.

~~4-001.03B Supplemental Medical Insurance Premium (SMI Premium):~~ The SMI premium is an allowable income exclusion for those medicare recipients who have the payment deducted from their monthly benefit checks.

~~4-001.03C Unpredictable Income:~~ Unpredictable income received by a client is disregarded. Income is considered "unpredictable" when its receipt does not conform to any pattern or when it is on an incidental basis. As a result, its continuity cannot be predicted and therefore cannot be relied upon for any future period.

~~4-001.03D Garnishment of Wages and Overpayments for Social Security and/or Supplemental Security Income (SSI): The amount of legally garnished wages withheld from the income of any household member will be excluded.~~

~~Overpayments which have occurred for Social Security or SSI recipients which have been, or are currently being, deducted from the recipient's eligible benefit amount are excluded. Only the income actually being received by the recipient is included as income.~~

~~4-001.03E Bankruptcy: If bankruptcy papers have been filed with the court, the household has no income or resources as it is all controlled by the court from that time on.~~

~~4-001.03G Excluded Income or Benefits: The following income is exempt:~~

- ~~1. Value of food coupons under the Food Stamp Act;~~
- ~~2. Value of federally donated foods;~~
- ~~3. Bona fide loans from any source;~~
- ~~4. Payment from JTPA for classroom training;~~
- ~~5. Earnings received from the employer or compensation in lieu of wages under a JTPA program;~~
- ~~6. JTPA program allowance paid to the client or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare to Work payments made by JTPA;~~
- ~~7. Any benefit under Title VII, Nutrition Program for the Elderly, of the Older American Act of 1965, as amended;~~
- ~~8. Payments distributed pursuant to any judgment of the Indian Claims Commission of the Court of Claims in favor of any Indian Tribe;~~

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- ~~8. Payments distributed pursuant to any judgment of the Indian Claims Commission of the Court of Claims in favor of any Indian Tribe;~~

- ~~9. Value of supplemental food assistance received under the Child Nutrition Act of 1966 and the National School Lunch Act;~~
- ~~10. Payments received from the Nebraska Low Income Energy Assistance Program;~~
- ~~11. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;~~
- ~~12. HUD rental and/or utility subsidies under Section 8 of the Housing Act (lump sum or monthly payments);~~
- ~~13. Any student financial assistance;~~
- ~~14. Payments to AmeriCorps volunteers~~
- ~~15. Earnings of a child 18 years of age and younger and in school;~~
- ~~16. Income received from another client for board and room or foster care payments;~~
- ~~17. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation;~~
- ~~18. Payments for services or reimbursement of expenses to volunteers serving as foster grandparents, senior health aides, or senior companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE) and any other programs under Title II and III (P.L. 93-113);~~
- ~~19. Federal and state income tax refunds;~~
- ~~20. Indian Land Lease;~~
- ~~21. Indian judgment funds distributed as per capita payments to members of Indian tribes or held in trust by the Secretary of the Interior, interest and investment income accrued on Indian judgment funds while held in trust, and purchases made with the funds;~~
- ~~22. \$10 or less per month per individual for each income type from interest and dividends (may be prorated on a monthly basis) and declared cash winnings, small insignificant children's cash allowances and small irregular earnings not computable or predictable;~~
- ~~23. Payments received from University in Action;~~
- ~~24. Benefits received under Title V of the Older American's Act, including—
  - ~~a. Green Thumb;~~
  - ~~b. Forest Service;~~
  - ~~c. Senior Community Service Employment Program; and~~
  - ~~d. National Retired Teachers Association/American Association of Retired Persons;~~~~
- ~~25. Any disaster payments;~~
- ~~26. Home produce from a garden, livestock, and poultry used by the household for its own consumption;~~
- ~~27. Income from a terminated source;~~
- ~~28. Court ordered child/spousal/medical support paid by a household member;~~
- ~~29. Agent Orange settlement payments;~~
- ~~30. Health insurance premium paid by any household member for any household member;~~
- ~~31. The value of any child care assistance provided by the Department;~~
- ~~32. Payments made under the Radiation Exposure Compensation Act; relied upon for any future period.~~

- ~~33. Living allowance issued to Job Corps recipients or the readjustment allowance that is issued when Job Corps participants leave the program;~~
  - ~~34. In-kind income received by Job Corps participants for food, shelter, etc.;~~
  - ~~35. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida;~~
  - ~~36. Payments made from any fund established as a result of the case of Susan Walker v. Bayer Corporation, et. al. to hemophilia patients who are infected with human immunodeficiency virus;~~
  - ~~37. Income from the sale of blood or plasma;~~
  - ~~38. Christmas bonus/work related bonus; and~~
  - ~~39. Payments to individuals due to their status as victims of Nazi persecution.~~
- ~~{Effective 8/2/2000}~~

~~4-001.04 Income Eligibility Test:~~ The total countable income, earned and unearned, of all members of the non-public assistance household may not exceed the income guidelines according to household size as indicated in 476 NAC 3-001.03B. The following disregards are allowed in the determination of the eligibility test.

~~4-001.04A Income Exclusions:~~ All income that is listed as excluded income in 476 NAC 4-001.03 is disregarded.

If verification of the amount paid for a health insurance premium is not readily available, e.g., on the paycheck stub or already verified for another assistance program, the client's statement of the amount of the premium is sufficient.

~~4-001.04B Self-Employment Disregards:~~ Operating expenses are deducted from gross earnings to determine net income. Net income only is used for determining income eligibility for self-employed individuals.

~~4-001.05 Income Computation Procedures:~~ All countable earned and unearned income for a household must be converted to yearly income. The following procedures are used to determine countable yearly income:

- ~~1. If the household has regular monthly income, only one month's income needs to be verified; the worker shall multiply this figure by 12 to determine yearly income;~~
- ~~2. If the household has irregular income, three month's income must be verified; the worker shall multiply this figure by four to arrive at yearly income. Irregular income is income, earned or unearned, which varies in amount from month to month or which is received at irregular intervals. This may be due to irregular employment, but even when an individual works regularly, the income may be irregular because of factors such as seasonal increases or decreases in employment and earnings, e.g., day labor, sales work on a commission basis, child care, etc. Small, irregular earnings which are not computable or predictable are not considered.~~



- ~~3. If the household has zero income at the time of application and that situation will continue, the worker may determine the household eligible based on zero income.~~
- ~~4. If the household is without income due to a recent layoff or has zero income (does not include seasonal workers) and expects unemployment compensation within the next 60 days, the worker shall project the Total Benefit Amount from the IUC2 screen.~~
- ~~5. If the household is without income (does not include seasonal workers) but anticipates a job starting during the month of application, the worker shall project the expected earnings.~~

~~4-001.05A Eligibility Determination: The worker shall compare the yearly income, after allowable deductions, to the income guidelines chart (see 476 NAC 3-001.03) to determine eligibility for energy assistance.~~

~~4-001.05B Payment Amount Determination: After eligibility has been determined, 20 percent of the gross countable earned income is disregarded before determining the payment amount. This is not applicable to self-employment income.~~

~~4-001.06 Significant Change: When there has been a significant change in income, the worker may verify and use the last full 12-month period preceding the date of application, if it is to the client's advantage. The following are examples of significant changes in income:~~

- ~~1. A job change which affects amount of income;~~
- ~~2. Commencement of employment;~~
- ~~3. Termination of employment;~~
- ~~4. Promotion;~~
- ~~5. A change in the number of hours worked; or~~
- ~~6. Any change in unearned income.~~

~~4-001.07 Verification of Income: The worker shall verify and document all earned and unearned income in the case record. Eligibility may not be established until all income is verified. Information necessary to verify income includes the-~~

- ~~1. Source of the income;~~
- ~~2. Gross amount of payment;~~

3. ~~The number of check or pay slip (or other identifying information);~~
4. ~~Date paid;~~
5. ~~Period covered by the payment; and~~
6. ~~Period covered by the average monthly income.~~

~~For seasonal workers, strikers, migrant workers, and self-employed workers, the worker shall use the income tax record for the verification period to determine eligibility.~~

~~If income has already been verified for another assistance program such as ADC, AABD, Social Services, or Food Stamps, reverification of the same income is not necessary.~~

CHAPTER 5-000 PAYMENTS

5-001 Payment Factors: Payment to eligible households for heating costs is established by four factors:

1. Fuel type;
2. Countable income of household;
3. Household size; and
4. Living arrangement.

If the household is receiving or has applied for and will be determined eligible for public assistance and all individuals in the household are in a single public assistance unit, the household is automatically income eligible for the maximum benefit. If not all members of the household are in the public assistance unit or the household consists of more than one unit, the household's income eligibility must be determined.

If the household received assistance from another state the amount received from the other state is deducted from the eligibility amount; the household receives the difference.

Payment may not exceed the amount determined from the payment chart unless the household is eligible for crisis assistance (see 476 NAC 5-006 ff.).

The household must provide verification of the utility provider name and account name and number. Verification is not required again unless the client moves or requests assistance for another utility provider payment.

{Effective 6/28/11}

5-001.01 Living Arrangement: A single family living arrangement is eligible for a full benefit. This may be an individual or a family who occupies a single dwelling. A group of individuals (related or unrelated) who live together are considered a single family living arrangement if they:

1. Live together as one economic unit;

2. Customarily purchase residential energy in common; and
3. Apply for energy assistance as a single household.

A multi-family living arrangement is eligible for a half benefit. This includes individuals residing in apartments, duplexes, triplexes, etc. A single dwelling can only be considered a multi-family dwelling if there is more than one utility (of same type) meter; or, if there is only one utility meter, the dwelling is divided into entirely separate apartments. For example, basement and main floor are divided into separate apartments with separate entrances. Otherwise, the clients must apply for energy assistance as a single unit, which would be considered a single-family dwelling.

Note: If the client has a personal care aide, the aide is not considered part of the household.

5-002 Method of Payment: Payment is made to the eligible household unless—

1. The local office determines that payment to the provider is in the best interest of the household;
2. The household requests that payment be made to the provider; or
3. The client has not established a payment history or has only a brief payment history with the current provider.

Payment must go to the provider if crisis assistance was previously received by a household.

Exception: Even if s/he has previously received crisis assistance, payment is made to the client if s/he is renting and the utilities are included in the rent.

5-002.01 Payment to Household For Propane, Fuel Oil, or Kerosene: When payment is made for propane, fuel oil, or kerosene, the amount is paid by computer as follows:

1. When the payment amount is \$500 or less, payment is made in one lump sum; and
2. When the payment amount is more than \$500, the payments are divided equally over a two-month period (the current month and the following month).

~~5-002.02 Payment to Household for Electricity or Natural Gas: When payment is made for electricity or natural gas, the amount is paid by computer as follows:~~

- ~~1. When the payment amount is \$150 or less, payment is made in one lump sum; and~~
- ~~2. When the payment amount is more than \$150, the following percentages are applied to the payment amount to determine the amount of the monthly payment:~~

<del>November</del>	<del>12 1/2 percent</del>
<del>December</del>	<del>25 percent</del>
<del>January</del>	<del>25 percent</del>
<del>February</del>	<del>25 percent</del>
<del>March</del>	<del>12 1/2 percent</del>

~~5-002.03 Payment to the Provider: Payments are made to the provider when -~~

- ~~1. The local office determines that the eligible household has a history of unpaid fuel bills;~~
- ~~2. Crisis assistance payment was received the previous year;~~
- ~~3. The household requests payment to the provider; or~~
- ~~4. The client has not established a payment history or has only a brief payment history with the current provider.~~

~~There must be a provider agreement. The worker shall check the provider listing for the provider number. Payment to the provider is made as a one-time advance payment which remains as a credit until it is used.~~

~~5-002.03A Payment History: The worker can determine a history of unpaid fuel bills -~~

- ~~1. By using local office records such as General Assistance (GA) or energy assistance records from a past year; and~~
- ~~2. From the indication on the current heating bill of a large past due amount.~~

~~5-002.04 Notice to Client~~

~~5-002.04A Approval Notice: Approval notice is printed by computer on the stub of the check. This includes notification of the payment schedule. If payment is made to the provider, a computer-generated notice is sent to the client.~~

~~5-002.04B Denial Notice:~~ A computer-generated denial notice is sent from the Central Office when an ineligible case is entered on the system, unless the reason listed is "other." The worker shall send Form IM-8 to cases with reason "other." The worker shall also send form IM-8 on crisis assistance denials.

### ~~5-003 Lost or Stolen Checks, Refunds, and Cancellations~~

~~5-003.01 Lost or Stolen Checks:~~ When a client reports that a check has been lost, stolen, destroyed, or not received the worker shall follow these procedures:

- ~~1.~~ The local office shall determine the check date, warrant number and amount from the consolidated computer listing (HEA 210-2); complete Form FA-29, "Warrant Information Request;" and send the white and yellow copies of Form FA-29 to the Central Office, Division of Finance and Accounting.
- ~~2.~~ If the check has not been cashed, a stop payment is placed on the warrant. The recipient must be advised to notify the local office immediately if the check is found after the "stop payment" notice is issued because the check will not be accepted for payment by the State Treasurer unless the "stop payment" is removed. When Form FA-29 has been submitted to the Central Office and the check is found before the duplicate check is mailed, a telephone call must be made to the Division of Finance and Accounting so that the duplicate check can be stopped and the "stop payment" can be removed for the original check.
- ~~3.~~ If the check has been cashed, the Division of Finance and Accounting shall send the local office a photocopy of the check for further action. After receiving a photocopy of the endorsed check, the worker shall determine if a forgery was committed. If the worker is reasonably sure that a forgery has been committed, the worker shall notify the Division of Finance and Accounting so that a duplicate warrant can be issued.
- ~~4.~~ When the duplicate warrant is issued to replace a forged warrant, it is sent to the local office to be forwarded to the client.

The total time required to issue a duplicate check is about 30 days after the request is sent to the State Treasurer's Office.

~~5-003.02 Refunds:~~ A utility provider may send a refund to the Central Office when the—

- ~~1. Client has moved and left no forwarding address;~~
- ~~2. Client has discontinued service with the provider;~~
- ~~3. Utility provider has paid in error;~~
- ~~4. Client has an unused balance; or~~
- ~~5. Client has died.~~

~~When the Central Office receives a refund check, a copy of Form IM-12, "NLIEAP Refunds/Cancellations," is sent to the local office to report that a refund has been received. If the current address of the client is available in the local office, the local worker shall notify Client Payments and Claims Processing, Central Office, so that the refund can be sent to the client.~~

~~5-003.02A Refund Not Returned to Client:~~ A refund must not be returned to the client if—

- ~~1. The current address is out of state;~~
- ~~2. The refund is from a previous program year;~~
- ~~3. Crisis assistance has been paid for the household; or~~
- ~~4. The client has died.~~

~~5-003.03 Cancellations:~~ It may be necessary to cancel a client's energy check when the client has—

- ~~1. Moved and left no forwarding address;~~
- ~~2. Died; or~~
- ~~3. Moved out of state.~~

~~When the post office returns a client's check to the Central Office, a memo is sent to the local office for follow-up procedures. The local office has ten days in which to notify Client Payments and Claims Processing in the Central Office of what action needs to be taken with the check.~~

~~Address changes must also be entered on the energy system. All addresses should be kept current.~~

~~5-004 Computing Heating Payment Amounts: To compute the heating payment, see the Heating Payment Chart (476-000-200).~~

~~Payment amounts according to the charts may be adjusted uniformly to allow for increased or decreased payments if projected funding or number of participants changes significantly.~~

~~5-005 Treatment of Energy Assistance Benefits: Benefits received from the Low Income Energy Assistance Program are not counted as income or resources in determining initial or continuing eligibility for other categorical assistance programs.~~

~~5-006 Energy Crisis Assistance: Crisis assistance is available continuously year round and/or as long as funds are available. A supervisor may authorize crisis payments not to exceed \$500. The amount must be no more than is necessary to correct the crisis situation. See 476 NAC 5-006.03 for "Special Crisis" authorization.~~

~~The situation demanding crisis assistance must constitute a threat to client health and may result from the following types of emergencies:~~

- ~~1. Blizzard;~~
- ~~2. Extreme cold weather;~~
- ~~3. Power outage;~~
- ~~4. Fuel shortage;~~
- ~~5. Natural disaster; or~~
- ~~6. Outstanding fuel bill.~~

~~See 476 NAC 5-006.04 for timelines for processing crisis application.~~



5-006.01 Eligibility for Crisis Assistance: The household must meet the eligibility guidelines as outlined in 476 NAC 3-001 ff.

If mismanagement of funds has caused the crisis, the worker shall make a referral to prevent a recurrence of the crisis. For example, if young children are involved, a referral to the child protective services unit may be necessary. If the client has income to cover his/her bills but is unable to manage them, the worker shall consider a referral to the Community Action Agency for budget counseling. If ADC and/or AABD grants are involved, the worker shall consider assignment of a protective payee.

An individual who is not cooperating with program requirements for another program is not automatically eligible for crisis energy assistance. The worker should evaluate the noncooperation circumstances to determine if crisis assistance is appropriate.

5-006.02 Payments Authorized: The Department must make crisis assistance payments directly to the provider; payments may be authorized to cover outstanding fuel bills, deposits, reconnect fees, or other related charges. In order to pay outstanding fuel bills, deposits, and reconnect fees from crisis funds, the worker must consider the following factors:

1. If records indicate the household has had a consistent payment history, but now has an emergency, a payment may be authorized. Consistent payment history is defined as
  - a. Full or partial payment in each of the six preceding months; or
  - b. Occasional payment made toward the total outstanding bill for the previous six months which defrays at least 75 percent of the bill; or
2. If records indicate an inconsistent payment history for a client who has an emergency, the Department may pay the remainder of the amount owed after the client has been informed of his/her responsibility to pay a specific portion of the bill and provides a receipt for payment of his/her portion. In extenuating circumstances, full payment may be authorized. The local office shall document the extenuating circumstances in the case record.

Crisis payments should never be authorized in an amount greater than what is necessary to alleviate the crisis. If circumstances dictate that the crisis payment should be sent directly to the household, the Central Office should be contacted before issuance of the payment.

5-006.03 "Special Crisis" Authorization: A request for "special crisis" assistance above the \$500 maximum may be made when—

1. The household situation is not covered under crisis assistance;
2. Emergency furnace or air conditioner repair and/or replacement is necessary; or
3. The amount needed to correct a crisis situation exceeds \$500.

Note: The Department does not repair or replace central air conditioning units; it also does not pay for furnace repair or replacement for rental property.

~~5-006.03A Approval for "Special Crisis" Assistance: To obtain approval for "special crisis" assistance, the worker shall submit Form IM-18 to the Central Office or use an automated Form ASD-17 and include the following information:~~

- ~~1. Income of the household;~~
- ~~2. Size of the household;~~
- ~~3. Age of members of the household;~~
- ~~4. Shelter expense;~~
- ~~5. Six months payment history if crisis is due to an outstanding fuel bill and/or deposit; and~~
- ~~6. Reason for the crisis or nonpayment.~~

~~Approval cannot be given unless information on circumstances requiring "special crisis" assistance is known.~~

~~5-006.04 Timelines for Processing Crisis Applications: An application for crisis assistance must be approved or denied within 18 hours after the household applies if a life-threatening situation exists; all other crisis applications must be acted on within 48 hours.~~

~~5-006.05 Alternate Sources of Crisis Assistance: The local office shall have posted information concerning potential alternate sources of crisis assistance that a client could access when the local office is not open. Alternate sources could include Community Action agencies, programs established by local utility companies, or local law enforcement agencies.~~

## CHAPTER 6-000 COOLING ASSISTANCE

~~6-001 Funding:~~ The payment level for cooling is determined depending upon availability of federal funds at the conclusion of the heating season.

~~6-002 Application for Cooling Assistance:~~ New applicants shall complete and sign Form IM-29, "Nebraska Low Income Energy Assistance Program Application." Clients who have previously received payment for energy assistance in the current year shall complete and sign Form IM-29B, "Cooling Assistance Request."

~~6-003 Conditions of Eligibility:~~ Elderly persons (age 70 and older) and persons for whom the Department has purchased an air conditioner in the last four years are eligible for cooling assistance without a medical statement. All other clients must have a medical statement verifying that they have a severe illness or condition which is aggravated by extreme heat.

~~6-003.01 Medical Statement:~~ The worker shall obtain Form DM-5 and Form IM-55 from a physician to verify that there is a risk to human life or health due to a severe illness or medical condition which can be ameliorated by cooling facilities. These illnesses or conditions include-

- ~~1. Heat exhaustion or heat stroke suffered in the past;~~
- ~~2. Diabetes being treated with daily insulin or oral hypoglycemic medication;~~
- ~~3. Cerebral vascular accident in past (stroke victim) or at risk with cerebral vascular disease;~~
- ~~4. Seizures-~~
  - ~~a. Known to be aggravated by heat; and~~
  - ~~b. Now being treated with daily medication;~~
- ~~5. Cancer. This must be a patient who is-~~
  - ~~a. Terminally ill; or~~
  - ~~b. Severely ill, receiving chemotherapy and/or radiation therapy;~~
- ~~6. Chronic cardiovascular disease with-~~
  - ~~a. CHF (congestive heart failure)~~
  - ~~b. Symptomatic ASHD (arteriosclerotic heart disease, coronary disease, etc.); or~~
  - ~~c. Moderate to severe hypertension;~~
- ~~7. Hypertension that-~~
  - ~~a. Is poorly controlled, especially with diastolics greater than 90 on medication;~~
  - ~~b. Has resulted in previous end organ damage to heart, brain, kidneys, or eyes (retina); or~~

- ~~e. — Is moderately well controlled with medication but in conjunction with medication (e.g., diuretics) poses a significant threat to health with heat exposure;~~
- ~~8. — Chronic severe respiratory disease, such as —
  - ~~a. — Severe emphysema;~~
  - ~~b. — Severe chronic obstructive pulmonary disease;~~
  - ~~c. — Severe chronic or frequently recurrent asthma requiring long term daily medication; or~~
  - ~~d. — Permanent tracheostomy;~~~~
- ~~9. — Severe handicap. This includes a person who must in large part be cared for by others, e.g. —
  - ~~a. — Severe burn victim;~~
  - ~~b. — Body case/body brace;~~
  - ~~c. — Severe cerebral palsy; or~~
  - ~~d. — Quadraplegic;~~~~
- ~~10. — Mental illness. This must be a person —
  - ~~a. — Whose illness is severe and may be aggravated by heat; or~~
  - ~~b. — Who is on medication which increases his/her medical risks when exposed to high heat, e.g., —
    - ~~(1) — Lithium;~~
    - ~~(2) — Antiparkinson drug;~~
    - ~~(3) — Phenothiazines;~~
    - ~~(4) — Amitirptylines; or~~
    - ~~(5) — Anticholinergics;~~~~~~
- ~~11. — Acquired Immune Deficiency Syndrome (AIDS) or AIDS-Related Complex (ARC);~~
- ~~12. — Newborns with a monitor; and~~
- ~~13. — Sickle Cell Anemia.~~

If Form IM-55 is returned with any of the conditions checked (with the exception of Part II, Sections N and O), the worker may approve the application for cooling assistance, if the client meets all other eligibility requirements. A new Form IM-55 is not required the following years.

6-004 Special Authorization: The worker shall forward Form ASD-17 along with all medical information (Form IM-55 and Form DM-5) to the State Review Team if —

- ~~1. — Form IM-55 is returned with —
  - ~~a. — Nothing checked; or~~
  - ~~b. — Part II, Section N or O checked; or~~~~
- ~~2. — The worker is unsure how to interpret the medical information received.~~

~~6-005 Determination of Eligibility: To determine eligibility for new applicants, refer to 476 NAC 3-000, "Eligibility Factors," and 476 NAC 4-000, "Income Treatment."~~

~~6-006 Redetermination of Eligibility: If clients have been determined financially eligible for energy assistance in the current year, redetermination of financial eligibility is not necessary unless there has been a significant change in income or resources. (See 476 NAC 4-001.06, "Significant Change.")~~

~~6-006.01 SSA/SSI Increases: Workers shall not consider cost-of-living increases as a change in income when redetermining eligibility for cooling assistance.~~

~~6-007 Payment for Cooling: Payment eligibility is established by these factors:~~

- ~~1. Countable income of household;~~
- ~~2. Household size; and~~
- ~~3. Living arrangement.~~

~~6-007.01 Method of Payment: Payment is made to the eligible household unless--~~

- ~~1. The local office determines that payment to the provider is in the best interest of the household;~~
- ~~2. The household requests that payment be made to the provider; or~~
- ~~3. The client has not established a payment history or has only a brief payment history with the current provider.~~

~~There will be a one-time payment.~~

~~6-008 Crisis Assistance for Cooling: For crisis assistance available, see 476 NAC 5-006.~~