

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.71.601 and 37.71.602) PROPOSED AMENDMENT
pertaining to low income)
weatherization assistance program)

TO: All Concerned Persons

1. On May 6, 2021, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/95093386597>. Meeting ID: 950 9338 6597; or

(b) Dial by telephone +1 646 558 8656. Meeting ID: 950 9338 6597. Find your local number: <https://mt-gov.zoom.us/u/ac4pNTxAxK>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on April 30, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.71.601 ELIGIBILITY FOR WEATHERIZATION SERVICE: PRIORITIES

(1) Except as provided in (1)(a), a dwelling is not eligible for weatherization services funded with U.S. Department of Energy (DOE) funds if the dwelling has been weatherized ~~with DOE funds after September 30, 1994~~ within the fifteen years following the date of the previous weatherization completion.

(a) remains the same.

(2) Except as provided in (2)(a), a dwelling is not eligible for weatherization services funded with NorthWestern Energy free weatherization (NWE) funds if the dwelling has been weatherized within the ten years immediately preceding following the date of the ~~current application for~~ previous weatherization completion.

(a) and (b) remain the same.

(3) Except as provided in (3)(a), a dwelling is not eligible for weatherization services funded with LIEAP weatherization funds if the dwelling has been weatherized within the ten years ~~immediately preceding~~ following the date of the ~~current application for~~ previous weatherization completion.

(a) thru (9) remain the same.

(10) When a dwelling is prioritized high enough to be scheduled for weatherization work, the delivery of services will be deferred until a later date if providing the services would pose a threat to the health or safety of either the weatherization installers or any other person. In such cases the delivery of services will be postponed until the conditions that pose a threat to health or safety have been resolved. The department adopts and incorporates by reference the department's Weatherization Assistance Program (WAP) Policy Manual effective ~~July 1, 2019~~ July 1, 2021, which outlines the circumstances that justify a deferral of weatherization services. The WAP Policy Manual is located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance.aspx> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620.

AUTH: 53-2-201, 90-4-201, MCA

IMP: 53-2-201, 90-4-201, 90-4-202, MCA

37.71.602 DETERMINING LOW INCOME WEATHERIZATION ASSISTANCE (1) remains the same.

(2) Dwellings chosen to be weatherized must receive those measures determined to be cost effective as defined in 10 CFR 440, as amended through ~~July 1, 2019~~ July 1, 2021. The department adopts and incorporates by reference 10 CFR 440, as amended through ~~July 1, 2019~~ July 1, 2021. A copy of these federal regulations may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., P.O. Box 202925, Helena, MT 59620-2925.

(3) The department adopts and incorporates by reference the department's Weatherization Assistance Program (WAP) Policy Manual and National Renewable Energy Laboratory (NREL) Standard Work Specifications effective ~~July 1, 2019~~ July 1, 2021. The WAP Policy Manual is located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance.aspx> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620. The NREL Standard Work Specifications are located at the NREL web site at <https://sws.nrel.gov/>.

AUTH: 53-2-201, 90-4-201, MCA

IMP: 53-2-201, 90-4-201, 90-4-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of ARM 37.71.601 and 37.71.602 pertaining to the Low Income Weatherization Assistance Program (LIWAP). LIWAP is a program to help low income households save home heating costs and address health and safety issues. The department proposes to make the following changes to its administrative rules governing LIWAP.

ARM 37.71.601(1)

The department proposes to amend ARM 37.71.601(1) to come in line with Section 1011 (h) of the Energy Act of 2020 which removes the reweatherization date of September 30, 1994 and creates a "rolling" option. The Energy Act of 2020 changed the authority to "reweatherize" if the dwelling has been weatherized with Department of Energy (DOE) funds fifteen years following the date of the previous weatherization completion. Previously, homes could not be "reweatherized" if the home had been weatherized with DOE funds after September 30, 1994. This change will allow homes to be weatherized sooner.

ARM 37.71.601(2)

The department proposes to amend ARM 37.71.601(2) related to the reweatherization date for NorthWestern Energy (NWE) homes. Currently, NWE homes can be reweatherized ten years following the date of the previous weatherization application. The department proposes to change the reweatherization date for NWE homes to ten years following the date of the previous weatherization completion. This change is necessary to be more consistent with the DOE reweatherization date.

ARM 37.71.601(3)

The department proposes to amend ARM 37.71.601(3) related to the reweatherization date for the Low Income Energy Assistance Program (LIEAP). Currently, LIEAP homes can be reweatherized ten years following the date of the previous weatherization application. The department proposes to change the reweatherization date to ten years following the date of the previous weatherization completion. This change is necessary to be more consistent with the DOE reweatherization date.

ARM 37.71.601(10)

The department is proposing to amend ARM 37.71.601(10) to update the date of the policy manual to July 1, 2021, to ensure the updated Weatherization Assistance Program Policy and Procedure Manual will be used for the 2021 program year. This is necessary to ensure that readers are reviewing the appropriate policy.

ARM 37.71.602

The department is proposing to amend ARM 37.71.602(2) to require the use of the current edition of 10 CFR, Part 440, amended through July 1, 2021. This is necessary to ensure the most current edition of 10 CFR, Part 440 is utilized.

The department is also proposing to amend ARM 37.71.602(3) to ensure the updated Weatherization Assistance Program Policy and Procedure Manual will be used for the 2021 program year. This is necessary to ensure weatherization measures are installed as the department intends.

In addition, the department is proposing to further amend ARM 37.71.602(3) to incorporate by reference the updated Standard Work Specifications (SWS) on the National Renewal Energy Laboratory (NREL) website, as amended through July 1, 2021. The amendment also provides the link to the NREL website where the Standard Work Specifications are stored. This is necessary to ensure the most current weatherization standards are utilized.

Fiscal Impact

The Low Income Energy Assistance Program, the U.S. Department of Energy, and Bonneville Power Administration are 100% federally funded. Montana Dakota Utilities and NorthWestern Energy are 100% utility funds. The department estimates that Montana will receive the same amount in utility funds compared to last heating season. It is estimated that 18,500 households will qualify for weatherization benefits this year which is comparable to last year.

The department intends these amendments to be effective July 1, 2021.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphslegal@mt.gov, and must be received no later than 5:00 p.m., May 14, 2021.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Ann Hefenieder
Ann Hefenieder
Rule Reviewer

/s/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State April 6, 2021.