

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 37.70.305, 37.70.401,) PROPOSED AMENDMENT
37.70.402, 37.70.406, 37.70.408,)
37.70.601, and 37.70.607, pertaining)
to low income energy assistance)
program (LIEAP))

TO: All Concerned Persons

1. On July 29, 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. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/85961897354>, meeting ID: 859 6189 7354; or

(b) Dial by telephone +1 646 558 8656, meeting ID: 859 6189 7354. Find your local number: <https://mt-gov.zoom.us/u/k9Bxt4gQZ>.

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 July 23, 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:

37.70.305 APPLICATION (1) through (3) remain the same.

(4) Publicly subsidized housing households whose energy costs are included as a fixed portion of their rent or households who reside in publicly subsidized housing and have an obligation to pay a base-load electric bill are not eligible for a regular LIEAP benefit computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2024~~ 2021-2022 heating season. However, these households are eligible for weatherization assistance as provided in ARM Title 37, chapter 71 and a modified LIEAP benefit. The modified LIEAP benefit is equal to five percent of the amount of a regular LIEAP benefit computed using the benefit matrices and multipliers in ARM 37.70.601 or a minimum payment of \$25, whichever is greater, paid to the household annually.

Households determined eligible for the modified LIEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

(5) through (7) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.401 DEFINITIONS (1) through (24) remain the same.

(25) "Modified LIEAP benefit" means the amount paid to eligible households who reside in publicly subsidized housing and whose energy costs are included as a fixed portion of their rent or who have an obligation to pay a base-load electric bill. The modified LIEAP benefit is equal to 5 percent of the amount of a regular LIEAP benefit computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2024~~ 2021-2022 heating season or a minimum payment of \$25, whichever is greater paid to the household annually. Households determined eligible for the publicly subsidized housing modified LIEAP benefit, whose economic and housing situation does not change, are income eligible for a period of five years.

(26) through (42) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.402 GENERAL ELIGIBILITY REQUIREMENTS, ELIGIBILITY REQUIREMENTS FOR CERTAIN TYPES OF INDIVIDUALS, AND HOUSEHOLDS

(1) through (6) remain the same.

(7) Residents of publicly subsidized housing whose energy costs are included as a fixed portion of their rent or who reside in publicly subsidized housing and have an obligation to pay a base-load electric bill are not eligible for a regular LIEAP benefit computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2024~~ 2021-2022 heating season. However, these households are eligible for weatherization assistance as provided for in ARM Title 37, chapter 71 and a modified LIEAP benefit. The modified LIEAP benefit is equal to five percent of the amount of a regular LIEAP benefit, or a minimum payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the modified LIEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

(8) and (9) remain the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.406 INCOME STANDARDS (1) Households with one through eight members with annual gross income at or below 60 percent of the estimated state median are eligible for LIEAP benefits on the basis of income. Households with nine or more members are eligible for LIEAP benefits on the basis of income only if the

household's annual gross income is at or below 150 percent of the ~~2020~~ 2021 U.S. Department of Health and Human Services poverty guidelines for a household of that size. Households with annual gross income above the applicable income standard are ineligible for LIEAP benefits, unless the household is automatically financially eligible for LIEAP benefits as provided in ARM 37.70.402 because all members of the household are receiving SNAP, SSI, or TANF-funded cash assistance.

(2) The department adopts and incorporates by reference the department's Low Income Energy Assistance Program (LIEAP) Table of Income Standards, ~~2020-2024~~ 2021-2022 heating season. The LIEAP table of income standards, ~~2020-2024~~ 2021-2022 heating season, is located at the department's web site at <http://www.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, P.O. Box 202956, Helena, MT 59620.

(3) remains the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.408 RESOURCES (1) through (3) remain the same.

(4) The department adopts and incorporates by reference the department's LIEAP Table of Resource Standards, for the ~~2020-2024~~ 2021-2022 heating season. The LIEAP table of resource standards is located at the department's web site at <http://www.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, P.O. Box 202956, Helena, MT 59620.

(5) remains the same.

AUTH: 53-2-201, MCA

IMP: 53-2-201, MCA

37.70.601 BENEFIT AWARD (1) The department adopts and incorporates by reference the department's LIEAP Benefit Award Matrix and Table of Multipliers, for the ~~2020-2024~~ 2021-2022 heating season. The LIEAP Benefit Award Matrix is located at the department's web site at <http://www.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, P.O. Box 202956, Helena, MT 59620. These matrices are used to establish the benefit payable to an eligible household for a full heating season. The benefit varies by:

(a) through (g) remain the same.

(2) The benefit payable to an eligible household will be computed by multiplying the applicable amount in the table of base benefit levels found in the LIEAP Benefit Award Matrix for the ~~2020-2024~~ 2021-2022 heating season by the applicable matrix amount in the table of income/climatic adjustment multipliers found in the LIEAP Benefit Award Matrix for the ~~2020-2024~~ 2021-2022 heating season.

(3) remains the same.

(4) Publicly subsidized households whose energy costs are included as a fixed portion of their rent or who reside in publicly subsidized housing and have an out-of-pocket obligation to pay a base-load electric bill are not eligible for a regular LIEAP benefit computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2021~~ 2021-2022 heating season. However, these households may be eligible for a modified LIEAP benefit. The modified LIEAP benefit is equal to five percent of the amount of a regular LIEAP benefit computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2021~~ 2021-2022 heating season or a minimum payment of \$25, whichever is greater, would be paid to the household annually. Households determined eligible for the modified LIEAP benefit whose economic and housing situation does not change would be determined eligible for a period of five years.

AUTH: 53-2-201, MCA
IMP: 53-2-201, MCA

37.70.607 AMOUNT AND METHOD OF PAYMENT (1) Eligible households that are billed for energy costs directly by the fuel vendor will be paid a benefit in the amount computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2021~~ 2021-2022 heating season and will be paid as follows:

(a) through (d) remain the same.

(2) Eligible households that pay energy costs for heating their homes that are not billed directly by the fuel vendor because the fuel account is not in the name of a member of the household will be reimbursed for eligible energy costs paid by the household, provided that the amount paid to the household for the heating season does not exceed the benefit amount computed using the benefit matrices and multipliers in the LIEAP Benefit Award Matrix and Table of Multipliers for the ~~2020-2021~~ 2021-2022 heating season. Reimbursement will be made by check payable to the household. The household must provide receipts to document paid eligible energy costs claimed. The household must provide receipts to support the paid eligible energy costs to the local contractor by June 20.

(3) and (4) remain the same.

AUTH: 53-2-201, MCA
IMP: 53-2-201, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of 37.70.305, 37.70.401, 37.70.402, 37.70.406, 37.70.408, 37.70.601, and 37.70.607 pertaining to the Low Income Energy Assistance Program (LIEAP). LIEAP is a federally funded program to help low income households pay their home heating costs. The department proposes to make the following changes to its administrative rules governing LIEAP.

ARM 37.70.305, 37.70.401, 37.70.402, 37.70.601 and 37.70.607

The department is proposing to amend these rules by providing that an updated LIEAP Benefit Award Matrix will be used for the 2021-2022 heating season. ARM 37.70.601 provides that, in most cases, an eligible household's benefit is computed by multiplying the applicable amount in the table of base benefits found in the LIEAP Benefit Award Matrix by the applicable multiplier from the table of income/climatic adjustment multipliers also found in the LIEAP Benefit Award Matrix. The amounts in the table of base benefits vary based on the type of heating fuel the household uses and the type and size of the household's dwelling. The benefit amounts also take into consideration available funding, fuel costs, and the number of households expected to receive benefits in a given heating season, all of which change from year to year. The amounts in the benefit tables in the LIEAP Benefit Award Matrix for 2020-2021 are being revised based on estimates of the amount of funds available to pay LIEAP benefits for the 2021-2022 heating season, the estimated number of households that will apply and be found eligible for LIEAP for the 2021-2022 season, and fuel cost projections for the 2021-2022 heating season. If the amounts in the benefit tables were not updated for the 2021-2022 heating season, the amount of benefits paid out for the season might exceed available funding or a large amount of funds that could have helped low income households heat their homes might go unspent.

In addition to the table of base benefits, the LIEAP Benefit Award Matrix also contains a table of income/climatic adjustment multipliers. These multipliers are based on a household's income as a percentage of the federal poverty guidelines and on what part of the state the household lives in. The state is divided into ten regions with different multipliers to consider the climatic differences from one part of the state to another, which have an impact on residential heating costs. It is not necessary to revise the multipliers annually because the factors on which they are based do not vary significantly from year to year. The department is not proposing any changes to the table of income/climatic adjustment multipliers in the LIEAP Benefit Award Matrix for 2021-2022 for this reason.

ARM 37.70.406

The department proposes to amend this rule to provide that it will use the U.S. Department of Health and Human Services' poverty guidelines for 2021-2022, rather than the federal poverty guidelines for 2020-2021, in the table of income standards used to determine eligibility for LIEAP for the 2021-2022 heating season. This change is necessary to consider increases in the cost of living. The department uses the poverty guidelines for the current year because they are usually higher than the guidelines for the previous year, resulting in higher standards for the current heating season. If the department did not use the updated guidelines, some households might be ineligible for LIEAP due to inflationary increases in the household's income that do not reflect an increase in buying power.

ARM 37.70.408

The department is proposing to amend this rule by updating the date of the LIEAP Table of Nonbusiness Resource Limits used to determine LIEAP eligibility based on resources. This is necessary because (5) provides that the dollar limits on nonbusiness resources will be revised annually to adjust for inflation by multiplying the current dollar limits by either the percentage increase in the consumer price index (CPI) for the previous calendar year or 3 percent, whichever is less. The increase in the CPI for 2020 was 1.4%; therefore, the dollar amounts in the LIEAP Table of Nonbusiness Resource Limits for the 2021-2022 heating season will increase by 1.4%. If the resource limits were not revised annually to adjust for inflation, some households might be ineligible for LIEAP because their resources exceed the resource limit although the buying power of their resources was less than in previous years due to inflation.

Fiscal Impact

LIEAP is 100% federally funded. Congress has not yet appropriated funds for the LIEAP 2021-2022 heating season but based upon the information available at this time the department estimates that Montana will receive comparable funding to last heating season. Benefit levels for households using all types of heating fuel and for all dwelling types are expected to be comparable to the 2020-2021 heating season. It is estimated that 18,000 households will qualify for LIEAP benefits this year which is comparable to last year. As in past years, if LIEAP funds for the 2021-2022 season are appropriated at a higher level, the additional funding will allow subsequent payments to be issued to each LIEAP recipient.

The department intends for these proposed amendments to be effective October 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 6, 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 June 29, 2021.