



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

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## Low Income Home Energy Assistance Program Information Memorandum

**IM#:** LIHEAP-IM-2021-02

**DATE:** July 6, 2021

**TO:** LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) GRANTEEES AND OTHER INTERESTED PARTIES

**SUBJECT:** Federal Poverty Guidelines for Optional Use in Federal Fiscal Year (FFY) 2021 LIHEAP and Mandatory Use in FFY 2022 LIHEAP

**ATTACHMENT(S):** (1) **Federal Register** notice announcing the annual update of the HHS Poverty Guidelines, published on February 1, 2021 (86 FR 7732-7734).  
(2) 100 percent, 110 percent, 150 percent of the HHS Poverty Guidelines for 50 states and the District of Columbia, adjusted by family size.  
(3) LIHEAP-applicable 100 percent, 110 percent, 150 percent of Poverty Guidelines, adjusted by family size, for the Commonwealth of Puerto Rico.

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### RELATED REFERENCES

- (1) The Low Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended;
- (2) 45 CFR 96.85(a), Income Eligibility - Final Rule, published in the **Federal Register** March 3, 1988 (53 FR 6827) and amended October 15, 1999 (64 FR 55858); and
- (3) Annual Update of the HHS Poverty Guidelines, **Federal Register** notice dated February 1, 2021 (86 FR 7732-7734).

### PURPOSE

To provide LIHEAP-specific updates to the U.S. Department of Health and Human Services Federal Poverty Guidelines (FPG), which the HHS/Office of the Assistant Secretary for Planning and Evaluation (ASPE) issued on February 1, 2021. LIHEAP grantees that base their income-

eligibility criteria on FPG may use these guidelines for their Federal Fiscal Year (FFY) 2021 programs and **must** use these guidelines for their FFY 2022 programs.

To provide LIHEAP-specific adjustments to the FPG for recommended use by the Commonwealth of Puerto Rico and the other U.S. territories that provide LIHEAP assistance in FFY 2021 and 2022.

## **BACKGROUND**

Section 2605(b)(2)(B) of Public Law 97-35, 42 U.S.C. § 8624(b)(8)(B), establishes the following requirements that LIHEAP grantees must follow in setting the income-eligibility criteria of their programs:

- (1) Grantees may make eligible solely on the basis of household income which does not exceed the greater of—
  - (A) an amount equal to 150 percent of HHSPG for the State; or
  - (B) an amount equal to 60 percent of the State Median Income (SMI) for the State; and
- (2) Grantees may not exclude from eligibility solely on the basis of household income which falls below 110 percent of FPG for such State—though grantees may give priority to those households with the highest home energy costs or needs in relation to household income.

## **CONTENT**

ASPE updated the FPG in a **Federal Register** notice that was published on February 1, 2021. [Attachment 1](#) presents the text of that notice.

LIHEAP grantees that use FPG to set their income-eligibility criteria are to adopt these guidelines in the manner indicated below.

### ***Optional Use***

LIHEAP grantees may adopt these guidelines at any time on or after January 13, 2021 (the effective date announced in the **Federal Register** notice) and September 30, 2021 (the end of FFY 2021).

### ***Mandatory Use***

LIHEAP grantees must adopt these guidelines by no later than October 1, 2021 (the beginning of FFY 2022) or the beginning of a grantee's 2022 fiscal year, whichever is later.

### ***Federal Income Eligibility Range***

All LIHEAP grantees must set their income-eligibility criteria between 110 percent of these guidelines and the greater of (1) 150 percent of these guidelines; and (2) 60 percent of SMI. These limits are shown in Attachment 2.

### ***Household***

Household is defined in the Section 2603(5) of the LIHEAP statute [42 U.S.C. § 8622(5)] as “any individual or group of individuals who are 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.”

### ***Income***

The LIHEAP statute does not define income. Generally, income means gross income, but a number of grantees choose to use net income to deduct for medical expenses over a certain level, or for some limited expenses associated with employment such as childcare.

### ***Program Eligibility Criteria***

Grantees have the option, but are not required, to establish additional requirements for income-eligible households to be eligible for LIHEAP.

### ***Territorial Calculations***

HHS does not issue poverty guidelines overall for federal programs in the territories. HHS has indicated that federal programs are generally responsible for deciding whether to use the Continental United States poverty guidelines for the territories or to follow some other procedure (as referenced in 86 FR 7733 (Attachment 1)). However, the Division of Energy Assistance has developed an approach to adjust annually the HHS poverty guidelines for the Commonwealth of Puerto Rico’s use in determining LIHEAP income eligibility. A similar adjustment is not available for the other territories at this time. DEA recommends that the other territories use the adjusted poverty guidelines provided in Attachment 3 in determining LIHEAP income eligibility for FFY 2022.

## **INQUIRIES TO**

Please send all inquiries to the following individual:

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Thank you for your attention to these matters. OCS looks forward to continuing to provide high-quality services to OCS grantees.

/s/  
Lauren Christopher  
Director, Division of Energy Assistance  
Office of Community Services