

**DEPARTMENT OF COMMUNITY AFFAIRS
LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

**RULE 9B-65
Adopted 11/30/08**

9B-65.020 Definitions.

- (1) "Act" means Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended [42 U.S.C. Sections 8621-8630] and [45 CFR Part 96, Subpart H, Sections 96.80-96.89], all of which are incorporated by reference herein.
- (2) "Department" or "DCA" means the Florida Department of Community Affairs.
- (3) "Home Energy Crisis" means the situation existing when a household does not have or is in immediate danger of losing home energy for heating or cooling per 42 U.S.C. 8622(6), or there exists an immediate threat to life or health due to the lack of home energy.
- (4) "Household" means a person or group of persons residing together in the same dwelling as one economic unit.
- (5) "LIHEAP" means the Low-Income Home Energy Assistance Program authorized under the Act, and administered by DCA.
- (6) "Poverty Income Guidelines" means the federal poverty guidelines established by the U. S. Department of Health and Human Services and published annually in the Federal Register.
- (7) "Subgrant Agreement" means the written contract between the Department and a recipient party, which sets forth the services to be provided with the subgrant funds.
- (8) "Subgrantee" is a unit of local government or a not-for-profit organization receiving LIHEAP financial assistance under a subgrant agreement from the Department.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History--New 11-30-08.

9B-65.021 Distribution of Funds.

Based on the availability of federal LIHEAP funds each year, the distribution of funds shall be made as follows:

- (1) The Department shall retain no more than 3 percent of the total LIHEAP funds received from the federal government for the state administration of the program.
- (2) With the approval of the U. S. Department of Health and Human Services, the Department will designate up to the maximum allowed in the Act for weatherization and other energy-related home repair for low-income households.
- (3) The Department will provide 6 percent of the total LIHEAP funds to the Department of Elder Affairs to provide assistance under LIHEAP to low-income households that include at least one member age 60 years of age or older.
- (4) The Department will reserve 2% of the annual LIHEAP amount designated for pass-through to the subgrantees to be used in case of a weather-related, supply shortage or economic emergency. These funds will be retained by the Department each year until December 15. If a state or federal emergency is declared by the President, the Governor or the Secretary of the Department prior to December 15, then the funds will be released for use for LIHEAP eligible activities in response to the emergency. After December 15, if no emergency has been declared, the Department will release these funds for energy benefits. When funds are distributed for an emergency, the terms of the executive order will determine the allowable

expenditures of the funds, based on the nature of the emergency. Any additional emergency funds will be added to the existing contracts of the subgrantees affected by the emergency.

- (5) The balance of the LIHEAP funds shall be awarded through an allocation plan for statewide distribution of the funds based in part on the percentage of poverty population and the climate zone of each county. Notice shall be sent annually by email to each subgrantee. For any county not served by a LIHEAP provider, a public hearing must be held to select a new LIHEAP provider in accordance with the requirements of the Act [42 U.S.C. § 8624].
- (6) Funds distributed by the Department to Subgrantees which have not been expended at the end of the contract period shall be returned to the Department at the time of close-out.
- (7) Subgrantees shall be offered an annual subgrant until they either voluntarily withdraw from the program or are defunded for cause.
- (8) When it is necessary to designate a new LIHEAP Subgrantee, the process shall be publicly announced and noticed and shall conform to the requirements of the Act.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History—New 11-30-08.

9B-65.022 Energy Assistance Benefits.

- (1) The number, nature and amount of energy benefits will be set by DCA in accordance with the federal requirements of the Act and adjusted annually based on funding availability. DCA will notify the Subgrantees in writing at the address stated in the Subgrant Agreement.
- (2) The following maximum benefits will be available to eligible households:
 - (a) One non-crisis benefit per 12 month period;
 - (b) One summer home energy crisis benefit between April 1 and September 30 each year; and
 - (c) One winter home energy crisis benefit between October 1 and March 31 each year.
- (3) Based on local need for LIHEAP services and other non-LIHEAP energy assistance resources in their service area, the Subgrantee may limit benefits to less than those stated in subsection (2) above.
- (4) In the event of an emergency as described in subsection 9B-65.021(4), F.A.C., the Department will allow expenditures of the funds in which the benefits may exceed those given in subsection 9B-65.022(2), F.A.C.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History—New 11-30-08.

9B-65.023 Client Eligibility.

- (1) Client eligibility will be determined based on the requirements of the Act and Rule Chapter 9B-65, F.A.C.
- (2) The household must reside in Florida at the time of application.
- (3) A household must apply for assistance from the LIHEAP Subgrantee which is designated to provide services in the county in which the household is located at the time of application.
- (4) The applicant is not eligible for assistance if home energy costs are totally included in the rent and the applicant has no obligation to pay any portion of the energy costs.
- (5) The following income factors shall be used to calculate client eligibility:
 - (a) The gross income of all household members is added together to determine eligibility and the level of assistance;

- (b) Medicare premiums paid or deducted from Social Security and Railroad Retirement benefits are included in the gross income;
 - (c) All income received during the twelve-month period prior to the month of application must be verified. If verified income is not available for the entire twelve month period before the month of application, then a shorter period may be used to project estimated annual income. The income amount used must reflect the current economic status of the applicant;
 - (d) Annual income limits by household size shall be 150 percent of the federally established poverty income guidelines adjusted annually as published in the Federal Register;
 - (e) Within 30 days of the publication of the federal poverty income guidelines, DCA will send notice of the revised income limits and their effective date to all Subgrantees;
 - (f) Households receiving Supplemental Security Income (SSI) or Food Stamps or who have applied for and are currently eligible for Weatherization Assistance Program (WAP) or Community Services Block Grant (CSBG) funds are considered automatically eligible. This is used only as a method of determining income eligibility. Program benefits and eligibility policies apply regardless of the method of income documentation;
 - (g) Any applicant who reports income of less than 50 percent of the current poverty income guidelines and does not receive food stamps must explain how basic living expenses are being provided;
 - (h) If an applicant fails to provide a reasonable explanation of how the household's basic needs are or were met during the two months prior to application, the applicant will be denied services; and
 - (i) If an applicant cannot document household income and does not receive food stamps, the Subgrantee shall accept a signed self-declaration of income statement that adequately explains exceptional circumstances and gives the amount of their income.
- (6) Priority will be given to those applicants with the "highest home energy needs and lowest household income." This will be determined by taking into account both the energy burden as defined in 42 U.S.C. 8622(2) and the unique situation of a household that results from having members of vulnerable populations, including children 5 years and younger, the disabled, and frail older individuals.
- (7) The following types of households/individuals will not be eligible to receive assistance from this program:
- (a) A student living in a dormitory; and
 - (b) A resident of a group living facility or a member of a private home whose cost of residence is at least partially paid through any foster care or residential program administered by the State.
- (8) Determination of eligibility will be made without discrimination as to race, color, sex, age, handicap, religion, national origin or political belief.
- (9) Notice of whether an applicant is eligible to receive assistance must be sent to the applicant by first class mail or hand delivery.
- (a) If the applicant is eligible, the notice will state the amount of the LIHEAP benefit payment and name of the utility vendor.
 - (b) Any Applicant denied LIHEAP services must be provided a written notice of the denial. At a minimum, the written Notice of Denial and Appeals shall contain the reason for the denial; under what circumstances the client may reapply; what information or documentation is needed for the person to reapply; and the name, telephone number and address to whom the re-application or appeal must be sent.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History–New 11-30-08.

9B-65.024 Energy Payments.

- (1) The Subgrantee shall make energy payments directly to the vendor on behalf of the eligible client. Only in cases where the Subgrantee cannot negotiate direct payment to the vendor will payment to the client be made in the form of a two party check payable to the client and vendor.
- (2) The household must provide proof that it is responsible for paying the home energy cost. Fuel or energy types include electricity, fuel oil, kerosene, wood, natural gas, liquid propane or liquid propane gas. If the name on the bill/receipt is different from that of any member of the household, the relationship of the applicant to the fuel purchaser must be explained in the LIHEAP client files.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History–New 11-30-08.

9B-65.025 Hearings.

Subgrantees are required to have written applicant appeal procedures which satisfy the requirements of 42 U.S.C. § 8624(b)(13). Appeal provisions must be posted in a prominent place in the office visible to all applicants.

Specific Authority 409.508 FS. Law Implemented 409.508 FS. History–New 11-30-08.