

H. Eligibility Criteria for Heating Assistance

1. Income

- a. The maximum income eligibility limit for heating assistance is 60% of the state median income as updated annually in the Federal Register by the U.S. Department of Health and Human Services, under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, that are in effect at the beginning of this federal fiscal year and subsequent federal fiscal years
- b. Income is defined as the adjusted gross income of all household members from all sources except those excluded in item c below. Income is considered received when it is normally available. All sources of income will be converted to an annual amount to be comparable with the current maximum eligibility income levels, in the following manner [except as described in (5)]:
 - (1) The household's current non-exempt adjusted gross income received in the month of application, reapplication, and each proceeding month of the heating season, is annualized by multiplying a monthly payment times 12; a weekly payment times 52; and a bi-weekly payment times 26. (Applications received prior to October 1 will be based on the income

expected to be received in October, the first month of the heating season.) This amount is added to the other sources of annualized income described below.

- (2) One time only or periodic income that is not the conversion of an asset, such as interest income or the unobligated portion of a loss settlement, will be annualized by multiplying the amount received in a single payment by the number of times received in a 12 month period.
- (3) The total amount of income specified in an annual employment contract, as with school personnel, will be included in the total annualized income regardless of the amount received in the current month.
- (4) The total from an annual income source, such as business and farm income, is included in the total annualized income, regardless of the amount received in any one month. Annual income sources are usually reported on and verified by the most recent tax form. The gross income reported on a tax form is reduced by the amount of necessary operating expenses, excluding depreciation. In some cases, such as a new business or substantial business increase or reversal, the most recent tax form may not accurately indicate current income. In such cases, the current actual business income and expenses will be reported and verified to the extent practical. Each

business/farm income, including partnerships and family controlled corporations, shall be reported and computed separately. A reported income loss shall be revised to zero income before being added to the income of another business and to other sources of annualized income described above.

(5) For those applicants for whom a source of income has changed between two consecutive months by \$400 or more; or if the household's reported income in a current month is at or near zero, the income will be annualized using a three month average as follows:

- The sum of the prior month's income, the current month's income and a projection of the following month's income will multiplied by four to convert to an annual figure.
- When no reliable projection of the following month's income can be obtained, the income in the current month will be substituted in the above formula.

(6) Whenever it can conclusively be demonstrated that the household income annualized in the manner described above is not the best indicator of the household's ability to pay their fuel costs, the State Program Director may approve or promulgate an alternative method for the household that is reasonable and equitable.

- c. The following types of income, as well as any additional federally mandated types of income, will be excluded: (See paragraph 2 below for exemption or non-exemption of income received from assets.)
- (1) Income over which the household has no control, such as, but not limited to, reimbursements and payments made to others on the household's behalf, if such payments were not directed by the household.
 - (2) Small and irregular income that is administratively difficult to consider, document, or compute, such as, but not limited to, gifts and contributions or income from the sale of craft items, rummage sales, odd jobs, bingo/gambling winnings and so on. "Irregular" income is defined as income that is not assured and is received at unscheduled intervals. "Small" income is defined as income that is less than \$360 per year.
 - (3) Loans
 - (4) Earnings of a dependent child age 19 and below, so long as the child is enrolled as a student in an elementary or high school.
 - (5) TANF grant amounts for students away at college (the student is not counted as a member of the household).
 - (6) The special needs portion of the TANF grant.
 - (7) Income tax refunds and earned income tax credits.

- (8) Retroactive payments such as from Social Security, etc., if the ongoing amount of such payments is reflected in the current month's income.
- (9) Income from the developmentally disabled family home subsidy.
- (10) Payments received for providing child or adult foster care.
- (11) Reimbursements for meals provided by day care providers.
- (12) Reimbursement for transportation, day care and other employment or training costs under JOBS.
- (13) The value of free or reduced shelter costs that are received as a required part of an employment agreement, as a gift or through a governmental housing assistance program.
- (14) Educational loans, grants, scholarships and work-study wages to a *bona fide* higher education student.
- (15) The portion of a loss settlement obligated to replace the loss, pay off indebtedness or otherwise obligated by the loss. Any portion of the settlement above indebtedness or replacement cost is unobligated and available and counted as unearned income.
- (16) JOB incentive payments
- (17) Any amount necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (SSI) will not be counted as income to the household.

- (18) Income excluded by Federal law:
- (a) Payments, other than wages, to volunteers, and payments for supporting services or reimbursements of expenses to foster grandparents, senior health aides, senior companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), VISTA and any programs under Titles II and III of Section 418. (Public Law 93-113)
 - (b) Assistance to individuals other than wages, under the Older Americans Act of 1965, Public Law 96-478.
 - (c) Supplemental Food Program for Women, Infants and Children (WIC), Public Law 94-105, and the National School Lunch Program, Public Law 90-302
 - (d) Wages, allowance, or reimbursement for transportation and attendant care costs under Title VI of the Rehabilitation Act of 1973 (Title II, Public Law 95-602).
 - (e) Community Services Block Grant (CSBG) and Social Services Block Grant (SSBG) Flood Relief Program monies to assist in the needs of urban residents who experience property damage due to flooding. These monies are considered a reimbursement for a past or future expense.

- (f) Food Stamp Benefits, Public Law 95-113, and Food Commodities, Public Law 74-320.
- (g) Public Law 101-201 dated 12/6/89 exempts income from the "Agent Orange Settlement Fund".
- (h) Payments received under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646).
- (i) Payments made to VISTA volunteers or to other volunteers under the Domestic Volunteer Service Act of 1973 (42 USC 5044 (g) (1)).
- (j) Utility allowances by governmental housing assistance program under Section 927 of Public Law 102-55, the "Housing and Community Development Act of 1992".
- (k) Public Law 97-403 exempts Indian funds distributed on a per capita basis. Per capita payments from gambling profits are counted as unearned income.
- (l) The first \$2000 per year in income derived from Indian trust lands (Section 13736 of Public Law 103-66 amends 25 USC Section 1408).

- (m) Payments to Aleuts relocated to the United States under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-183, Section 206 of Title II); and payments made under the Civil Liberties Act of 1988 to American-Japanese citizens interned during World War II (Public Law 100-383, Section 105 of Title I).
- (n) Major Disaster Relief and Emergency Assistance under Public Law 100-707.
- (o) Payments received under Public Law 103-286, Subsection 1 (a) from a foreign government for restitution made to victims of Nazi persecution.
- (p) Job Training Partnership Act, Public Law 97-300, Summer Youth Employment and Training Program
- (q) Payments received from Americorps for education award monies up to \$4,725 will not be counted as income. Monies received as a living allowance (stipend) of up to \$7,500 will not be counted as income.
- (r) Educational assistance paid directly to a family by the Fort Berthold Three Affiliated Tribes under the Carl D. Perkins Vocational and Applied Technology Education

Act to help single parents pay for some of their child care costs is not considered as income, and the corresponding child care costs will not be allowed as deductions.

- (s) Services provided to families under the Family Investment Center Program through the Department of Housing and Urban Development (HUD).
- (t) Compensation made to crime victims under the Crime Act of 1984. (P.L. 103-322)
- (u) Payments made pursuant to the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act. (P.L. 103-436).
- (v) All income, allowances and bonuses received as a result of participation in the Job Corps Program
- (w) Subsidized Guardianship payments
- (x) Payments to children of Viet Nam veterans who are born with spina bifida.
- (y) Interest from savings accounts and Certificates of Deposit.

d. The following expenses are deducted from the household's gross income:

- (1) Paid or predictable annual medical expenses defined as allowable medical costs in the North Dakota Supplemental

Nutrition Assistance Program (SNAP) Manual Chapter 430-05-55-20-20. Includes health insurance premiums and prescribed family home care provided by a source or individual that is not a household member.

- (2) Alimony and/or child support payments actually paid to persons outside the household.
- (3) Out of pocket child care costs required for employment or training purposes that are not reimbursed to the household from any source.
- (4) 27% of earned income to compensate for income withheld for payments made for social security and federal and state taxes.
- (5) \$300 per month for extra maintenance costs, less employer reimbursement or subsistence allowance, may be deducted from the earnings of the head of the household or spouse who must reside away from home for the full work week for employment purposes. This deduction is prorated if the worker is away from home for less than the full work week, but no deduction is allowed if the absence is less than 50% of the work week.
- (6) \$300 per month, less any portion of exempt educational income that is available for living costs, may be deducted from the household's income for extra maintenance costs of the head of household or spouse who must reside away from home for the

full work week for educational purposes. This deduction is prorated if the student is away from home for less than the full work week, but no deduction is allowed if the student is away less than 50% of the work week.

- (7) Taxes withheld from pension payments.
 - (8) The amount of wages garnished or deducted by law or by court order.
 - (9) Additional significant unusual mandatory employment education or other expenses not described above but determined by the State Program Director to reduce the income available to the household.
- e. The result or sum for the month of application, or reapplication, and for each prior month determines the household's eligibility for such month, and is also used to compute or recompute benefits. Eligibility for subsequent months is based on the certification done for the month of application/reapplication.
- f. Changes in income and/or deductible expenses do not have to be reported and will not trigger a revision in benefits. Income changes will be factored into the benefit formula only when at least one of the other eligibility factors named in Section J, 1, g triggers a recomputation. The effective date of the change shall assure fair and proper notification to households and their suppliers. (See Section J, 1, g for benefit re-computations due to changes.)

2. Assets

- a. No household that has non-exempt real and personal property assets that exceed an equity value of \$10,000, plus \$5,000 for each household member 60 years of age and over, will be eligible to receive heating assistance.

The equity of all assets held by any household member is considered available to the household unless specifically exempt, or if the household can demonstrate that the asset is not available.

- b. The following real property is exempt:
 - (1) The household's primary residence, defined as a home which is owned and occupied by a family as its main place of residence.
The primary residence is not subject to any value limitation.
Any form of living unit, if used by the family for living purposes, is considered a primary residence.
 - (2) A primary residence is further defined as including the land on which it is located, provided the acreage does not exceed 160 contiguous acres if rural, or two contiguous acres (or the minimum required by city zoning ordinance if greater) if located in a town.
 - (3) Real property that produces income commensurate with prevailing community rates. However, the income produced by

this real property is included under the income limitations for eligibility.

- (a) Real property that produces little or no income will also be exempt if a bona fide, but unsuccessful effort to rent and/or sell the property at acceptable community rates can be verified.
 - (b) 25 USC Section 1408 as amended exempts individual Indians' interests in trust or restricted lands. (See H, 1, c (18)(l) for treatment of income.)
- (4) Contractual rights to receive money payments from the sale of real property, if the contract is producing income commensurate with prevailing community rates. The interest income produced by the Contract, less expenses, is included in the household's total income. Payments received on the principle of the Contract may be an exempt or non-exempt asset, depending on the disposition of the funds received.
- c. The personal property of all members of the household is also included in the total resources available to the household, including the equity value of all liquid and non-liquid assets.
- (1) The Term "liquid assets" is defined as any resource which can readily be converted to cash, and includes cash on hand, checking accounts, savings accounts, stocks, bonds, individual Indian monies and other negotiable instruments. Exempt liquid

assets are:

- (a) The cash surrender and loan value of life insurance.
- (b) Annuities or other pension plans as long as the money remains in the pension fund. Monthly or regular payments from the pension fund according to the plan are counted as income, as will withdrawals from IRA's, Keogh plans, etc., when those withdrawals can be made without penalty. However, a one-time only payoff of all funds in the pension or annuity is considered a conversion of an asset.
- (c) Savings that results from the earned income, and/or up to \$250 in savings resulting from gifts, of a dependent child under the age of 19 who is in elementary or high school.
- (d) Student loans and loans for a business/farm current year operating expenses, provided such loans are set aside in a separate account.
- (e) Periodic or annual current income that exceeds a single month and is held in a liquid asset for future monthly living costs.
- (f) Indian per capita payments held in a separate account. If commingled with other funds, this exemption is limited to six months from the date commingled.

- (g) Liquid assets resulting from payments received from VISTA.
- (h) Payments received under the Civil Liberties Act of 1988 by American-Japanese citizens displaced during World War II (Public Law 100 section 105 of Title I); and under the Aleutian and Pribilof Islands Restitution Act, Public Law 100-283, Section 206 of Title II for Aleuts relocated by the U.S. government during World War II
- (i) Any amount necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (SSI)
- (j) Payments received under Public Law 103-286, Subsection 1(a) from a foreign government for restitution made to victims of Nazi persecution.
- (k) Payments made for major disaster and emergency assistance under the Disaster Relief and Emergency Assistance Amendments of 1988, Section 105 of Public Law 100-707 (45 USC 5141 et seq.).
- (l) Payments received under Public Law 101-2-1, section 1(a) and P.L. 101-239, section 10405 regarding Agent Orange settlements.
- (m) Income acquired during a month cannot be considered as an asset in the same month.

- (2) Non-liquid assets are defined as the equity in any other resource that can be converted to cash. Examples are equity in snowmobiles, motorcycles, recreational vehicles, and grain in a bin and livestock ready for sale. All non-liquid assets are considered available resources except:
- (a) Clothing, personal effects and household goods, such as television sets (including a satellite dish) furniture, appliances, etc.
 - (b) Grain necessary for seed and feed, and grain stored for a maximum of 12 months after harvest.
 - (c) Livestock for dairy and breeding purposes.
 - (d) Business inventory.
 - (e) Tools, machinery and vehicles necessary for employment.
 - (f) Two licensed road vehicles.
 - (g) Burial plots, markers, stones, vaults and caskets that are not included in a pre-paid burial contract and that are not transferable.
 - (h) Any other non-liquid asset that cannot be converted to available funds if a *bona fide* but unsuccessful effort to do so can be verified.
- d. The total amount of funds held in any type of joint account is considered an available asset for each of the co-owners unless the

applicant can verify that the funds are, in fact, the sole possession of only one owner that has the generally recognized authority to direct disbursement.

- e. Funds held in trust for a household member are considered an available asset if a household member is the trust grantor and all trust beneficiaries are household members; a household member is the trust grantor and the trust is revocable; any member of the household has the power to influence the amount or conditions under which distributions from the trust are made to beneficiaries who are members of the household; the trustee(s) have discretion to determine if distributions may be made to any beneficiary who is a member of the household; or the trustee(s) are required to make distributions to any beneficiary who is a member of the household.
 - f. Any household member who knowingly transfers a non-exempt resource after the June 1 preceding the beginning of the federal fiscal year for the purpose of qualifying, attempting to qualify, or continuing to qualify for heating assistance benefits shall be denied heating assistance benefits for this federal fiscal year.
3. Ineligible Households
- a. Households that pay rent in a government-subsidized housing project or program and are not directly responsible for home energy costs are

considered to be fully protected from the rising costs of heating fuel and are not eligible for additional fuel assistance. The rental costs for these households are based on a fixed percentage of the household's income and/or other factors, and does not increase or decrease when fuel costs increase or decrease.

- b. Households that receive free home energy as a required condition of employment, as a gift, or through an enforced legal action (divorce/separation) are also considered fully protected from the rising costs of heating fuel.
 - c. Households that occupy housing units that are excluded in the definition of a living unit in a residential dwelling in Section E, 7 are ineligible households.
 - d. Aliens legalized under the Immigration Reform and Control Act of 1986 that are not permitted to receive assistance for 5 years, illegal aliens, and aliens holding student Visa's and their dependents.
4. Verifications
- a. All household income must be reported on the application. All sources and types of income and deductible expenses must be verified by written documentation except income of less than \$500 per year and deductible expenses that are less than \$1,000 per year. The documentation is retained in the county social service board case file,

or a notation is made in the case file that the written documentation was examined by the county social service board representative or that the documentation is in another assistance program file. These procedures and policies for verifying income are consistent with those used by one or more of the programs specified in 2605 (j) of the Act.

- b. Verification may be required of the applicant's statement of resources or assets, or any other factor of eligibility and benefit determination, whenever the statement is questionable in the judgment of the county social service board representative. Other eligibility and/or benefit determination factors include, but are not limited to, the identity of the applicant and/or individual responsible for heat costs, location and size and type of home, type of fuel, vendor, various dates, household composition, and vulnerability. If the required verification is refused, the application may be denied.
- c. Only during a household heating emergency that either occurs outside of the county social service board's office hours or verification for eligibility purposes cannot immediately be obtained; or during a natural disaster declared by the governor, may the minimum amount of fuel practical be authorized without a signed heating assistance application and necessary verifications. The application and necessary verifications will be secured as soon as possible, and if ineligible, the household will refund all LIHEAP funds expended or committed.