



Energy Assistance Program

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Jack Dalrymple, Governor
Maggie D. Anderson, Interim Executive Director

August 1, 2013

Lauren Christopher, Acting Director
Division of Energy Assistance
Office of Community Services, ACF, HHS
370 L'Enfant Promenade, SW
Washington, D.C. 20447

Dear Mr. Ms. Christopher:

Enclosed please find the following documents in application for FFY 2014 LIHEAP funds for North Dakota:

- 1) Our FFY 2014 State Plan of Administration;
- 2) Governor Dalrymple's delegation of signature authority to Ms. Maggie D. Anderson, and the sixteen assurances signed by her;
- 3) Our Report of Households Served for FFY 2013 (final figures will not be available until after September 30);
- 4) Copies of the lobbying, drug-free work place, and debarment certifications;
- 5) A copy of our Summary and Public Notice, which is being published in the state's eight daily newspapers;
- 6) Form ACF-535 Quarterly Allocation Estimates;
- 7) Our Program Integrity Plan as required by LIHEAP-IM-2013-01.

The documents in this packet have also been electronically submitted through the OLDC system as required by LIHEAP-IM-2013-01. As indicated on the public notice (#5 above), the comment period ends on August 16, 2013. We will send you any comments we receive, as well as the affidavits of publication at that time.

Please let me know if there is anything I've missed. We appreciate all of your help throughout the year.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Carol Cartledge".

Carol Cartledge, Director of Economic Assistance Policy Division



— State of —
North Dakota

Office of the Governor

Jack Dalrymple
Governor

July 2, 2013

Ms. Lauren Christopher, Acting Director
HHS, Administration for Children & Families
Office of Community Services
Division of Energy Assistance
370 L'Enfant Promenade, SW
Washington, DC 20447

Dear Ms. Christopher:

As Chief Executive Officer of the State of North Dakota, I hereby authorize the Executive Director of the North Dakota Department of Human Services to sign on my behalf, documents requiring my signature for the Low Income Home Energy Assistance Program (LIHEAP). These documents include, but are not limited to:

- The annual application for the Low Income Energy Assistance Grant Funds, including my certification that the State of North Dakota will comply with the sixteen (16) assurances contained in the Title XXVI, section 2605(b) of the Omnibus Budget Reconciliation Act of 1981 as amended;
- Amendments to the State Plan of Operations as required by section 2605(c); and

The Executive Director of the North Dakota Department of Human Services authorized to sign on my behalf is:

Maggie D. Anderson, Executive Director
North Dakota Department of Human Services
600 East Boulevard Avenue
Bismarck, ND 58505-0250

Sincerely,

A handwritten signature in blue ink that reads "Jack Dalrymple".

Jack Dalrymple
Governor

Assurances

The North Dakota Department of Human Services agrees to:

(Grantee Name)

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to --

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that,

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) * beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

*** This assurance is applicable only to States, and to territories whose annual regular LIHEAP allotments exceed \$200,000. Neither territories with annual allotments of \$200,000 or less nor Indian tribes/tribal organizations are subject to Assurance 15.**

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended.* By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.**

Signature: Maggie D. Anderson
Maggie D. Anderson
Title: Executive Director
ND Department of Human Services
Date: 7/29/13

*** Indian tribes/tribal organizations, and territories with annual regular LIHEAP allotments of \$200,000 or less, are not subject to assurance 15, and thus must only certify to 15 assurances.**

**** If a person other than the Chief Executive Officer of the State or territory, or Tribal Chairperson or Board Chairperson of a tribal organization, is signing the certification to the assurances, a letter must be submitted delegating such authority. (PLEASE ATTACH DELEGATION of AUTHORITY.) The delegation must include authority to sign the assurances, not just to administer the program.**

***** HHS needs the EIN (Entity Identification Number) of the State, territory or Tribal agency that is to receive the grant funds before it can issue the grant.**

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

North Dakota's Low Income Home Energy Assistance Program (LIHEAP)



**State Plan For
Federal Fiscal Year
2014**

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THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

NORTH DAKOTA STATE PLAN OF OPERATION

Federal Fiscal Year 2014

10/01/2013 through 9/30/2014

A. Authority and Purpose

The Low Income Home Energy Assistance Program is authorized under Title XXVI of Public Law. 97-35, the Omnibus Budget Reconciliation Act of 1981, as amended by Public Law. 98-558, the Human Services Re-authorization Act of 1984, Public Law 99-425, the Human Services Re-authorization Act of 1986, by P.L. 101-501 Title VII of the Augustus F. Hawkins Human Services Re-authorization Act of 1990, and by Title III of Public Law. 103-252, the Human Service Amendments of 1994. This State Plan of Operations is developed in accordance with Section 2605c of the Act. Funds payable to North Dakota under the Act will be expended in accordance with this plan and amendments.

The purpose of this program is to provide home energy assistance to eligible low income households in accordance with Title XXVI of Public Law. 97-35 as amended, the North Dakota State application for program funds and state and federal applicable statutes and regulations.

B. Designation of Agency

1. Statutory authority of the primary responsible agency

North Dakota Century Code 50-01-09 and 50-06-05.1 designate the North Dakota Department of Human Services and the county social service boards to administer a low-income energy assistance program. The Department of Human Services and the county social service boards have vast experience with low income families, are easily accessible to all households in the State, are able to respond to a crisis in a timely manner, and can coordinate assistance and services with all other community services and organizations.

The North Dakota Legislature through the North Dakota Department of Human Services biennium appropriation authorizes the receipt and expenditures of program funds.

The employer's identification number of the Department of Human Services is 45-0309764W.

2. Alternate outreach and intake.

The North Dakota Council of Community Action Agency Directors, representing the seven (7) regional community action agencies, have agreed to continue to provide outreach and intake function for LIHEAP heating assistance and crisis situations.

The North Dakota Department of Human Services Aging Services Division, as the statewide agency for Aging Services employs coordinators in each of the eight (8) regional Human Service Centers. The division has agreed that the regional Aging Services coordinators will continue to provide outreach and intake functions for LIHEAP heating assistance and crisis situations.

The North Dakota LIHEAP has agreed to provide appropriate staff training, administrative forms and printed information to the regional community action agencies and the regional Aging Services coordinators.

The outreach function and the intake function assigned to these alternate sites are defined in Section E.

3. Primary agency identification and address

The address of Ms. Maggie D. Anderson, Executive Director, North Dakota
Department of Human Services is:

Maggie D. Anderson, Executive Director
North Dakota Department of Human Services
State Capitol - Judicial Wing
600 E. Boulevard Ave. Dept. 325
Bismarck, ND 58505-0250
Telephone (701) 328-2310

The North Dakota Department of Human Services' statutory and chief executive officer delegated authority and responsibility to administer Low Income Home Energy Assistance Programs, including the receipt and expenditure of program funds, is delegated to the Director of Economic Assistance Policy Division.

Fiscal information and program information should be sent to:

Carol F. Cartledge, Director of Economic Assistance Policy Division
Energy Assistance Program
North Dakota Department of Human Services
State Capitol - Judicial Wing
600 E. Boulevard Ave. Dept. 325
Bismarck, ND 58505-0250
Telephone (701) 328-4008

C. Scope of the Program

1. Effective Dates

This Plan will be in effect from October 1, 2013 through September 30, 2014 or an earlier termination date if funds are not available.

2. Boundaries of State Plan - Tribes excluded

The Low Income Home Energy Assistance Program will encompass all eligible households residing within the boundaries of the State of North Dakota during the heating season, except Indian households residing on Reservations are included or excluded from this plan as described below. Funds allocated to the State will not be used for any costs incurred outside these boundaries.

Indian and non-Indian households residing on that small portion of the Lake Traverse Reservation that is located in North Dakota are included within the boundaries of this Plan.

The official tribal authority and organization for each of the four Indian reservations located in North Dakota will administer the Low Income Home

Energy Assistance Program for tribal members who reside within the reservation boundaries as authorized by Section 2604(d) of Title XXVI.

Estimates of the proportion of all low-income households in the State that are members of each tribe and reside within the boundaries of each reservation will be provided to the Secretary of Health and Human Services who shall determine each tribe's share of the State's total LIHEAP allocation.

3. Use of Funds

- a. Low Income Home Energy Assistance funds may be expended for heating assistance and service, Emergency Assistance and service, a cooling program, Low Income Weatherization Services, Administration, and/or reserved for a subsequent program year.
- b. Electrical heating costs will be differentiated from non-heating electrical costs to the extent possible through use of a second sub-meter or by prorating the total cost appropriately. Total electrical costs may be paid through the Emergency Assistance component to the extent necessary to resolve a home energy emergency as described in Section N.
- c. Applicant households will be asked to indicate if any heating or cooling fuel will be used for non-residential purposes. In those situations, the Estimated Cost of Heating as described in Section I, 2 multiplied by the household's LIHEAP share percentage, will be the maximum

benefit amount allowed for the household.

- d. Funds are reserved for commitments and obligations incurred through September 30 and expended as soon thereafter as possible. Uncommitted and unobligated funds, up to 10% of the State's net allotment, will be held for use in a subsequent program year.
 - e. Expended funds may be refunded at any time, and credited to the fiscal year from which the funds were expended. Refunds from the immediate past fiscal year will be added to the amount reserved from that fiscal year for use in the current fiscal year. Refunds credited to earlier fiscal years will be returned to the payment management system of the Department of Health and Human Services.
4. Applicability of Plan to Components

The general sections of the Plan (A, B, C, D, E, G, M, P, Q, T, U, W,) are applicable to all the LIHEAP components. Sections F, H, I, and J are applicable to the heating assistance component only, Section N is applicable to the Emergency Assistance component only, and Section O is applicable to the weatherization component only. Sections X and Y are applicable to the cooling component only. Sections K, L, R, S, and V are applicable to both heating assistance and Emergency Assistance components, but not to the weatherization component or to the cooling component.

D. Public Participation, Review and Comments on State Plan

1. Pre-Plan Public Participation

- a. The greatest resources in the development of the State's Plan of Operations are the suggestions received throughout the previous program year from citizens, clients, suppliers, utilities and program administrative personnel. A wide range of pertinent suggestions for program improvement and administrative efficiency were received and considered for inclusion in the Plan.
- b. Department of Human Services staff and all county social service boards and staff are formally requested to evaluate the program and suggest improvements annually.
- c. A working group of county eligibility technicians actively reviews the Plan and administrative procedures and proposes improvements. This committee meets with State administrative staff regularly to consider proposed changes or propose and develop program improvements.

2. Public Comment Period

- a. A 7- day (or more) public comment period was advertised in the eight major newspapers of the State. A summary of pertinent plan provisions and the public hearing date were included in the advertisement. Upon request, the Plan draft and/or a Plan Summary was available for public inspection.
- b. To facilitate review and comments, a copy of the draft Plan, or a summary of planned revisions, was sent to representatives of the Governor's Committee on Employment of People with Disabilities, each of the North Dakota independent living centers, the Veterans Affairs Department, the Public Service Commission, the Indian Affairs Commission, Legal Assistance of North Dakota, all four Tribes, the People Escaping Poverty Project, the Division of Community Services, each of the Community Action Agencies in the State, the Aging Services Department and all other departments within the North Dakota Department of Human Services, and all county social service boards. These organizations secure and share the comments of their constituents.
- c. As required by Section 2605(a)(2) of Public Law 97-35, the State Program Director conducted a public hearing on the date and place advertised in the eight major newspapers in the State, to solicit, receive, and record comments on the proposed use of Low Income

Home Energy Assistance Block Grant Funds. Recommendations resulting from the public hearings were considered in the final Plan document.

- d. The Plan or a summary of the Plan's pertinent provisions is available to all interested individuals and organizations upon request. The written comments received from all sources are retained for public inspection in the office of the State Program Director.
3. Public Inspection

Throughout the program year, the State Plan of Operations, as amended, will be available in each of the county social service board offices for inspection by any interested individual or organization.

4. Amendments

The State Plan of Operations may be amended from time to time throughout the program year. Major amendments or substantial Plan revisions, will be summarized and advertised in the eight major newspapers in the State for at least a 7 day comment period, available for public inspection and comment, and copies of each amendment will be sent to the Secretary of Health and Human Services.

E. Definitions

1. Cost / Consumption Tables

These tables are used to estimate the cost of heat and to determine heating assistance benefits for eligible households. (See Section I). The tables include the cost and rate of consumption of various types of fuel in various sizes and types of dwelling units as defined below:

a. Single Detached Home

This term means a single building that includes only one complete living unit. Mobile homes are included under this definition.

b. Duplex

This term means a single building that contains two complete living units.

c. All Other Living Units (Apartment Buildings, Row Houses, Town Houses, High Rises)

This term means all other building types not described in "a" or "b" above.

d. Homes or living units that are not obviously within any one of the above definitions will be assigned to the most appropriate category by the State Program Director based on the number of wall and other

surfaces exposed to the outside weather and temperature.

2. Elderly

This term includes all individuals 60 years of age and over.

3. Emergency Home Energy Assistance (Energy Crisis Intervention and Prevention - See Section N)

This term means home energy assistance to low income households necessitated by:

- a. Weather related, supply shortage and/or other household energy related emergencies; or
- b. The household's inability or potential inability to secure home energy for financial or other reasons.

4. Energy Burden

This term means the expenditures of the household for home energy divided by the income of the household.

5. Heating Degree Days

This term means the sum of the differences obtained by subtracting the mean temperature for each day in a period of one year from 65° Fahrenheit.

6. Home Energy

This term means a source of heating or cooling in a residential dwelling. In addition to the type of heating fuel, the term includes the complete mechanical system necessary to produce heat from fuel, and that portion of the residential electrical energy necessary to operate heating or cooling systems.

7. Household

This term means any individual or group of individuals, regardless of relationship, who are living together in one housing unit.

8. Housing Unit (Living Unit)

This term refers to one or more rooms occupied as separate living quarters in a residential dwelling except that:

- a. Housing units owned or operated by educational and/or other institutions which perform an educational or other service for the residents are excluded if the heating costs are obligated, guaranteed, or in any way the responsibility, directly or indirectly, of the institution, or are integrated in any way with the educational or other service costs.
- b. Dormitories, residential treatment centers, rehabilitation centers, teaching/training centers, transitional living centers, hospitals, nursing homes, retirement or rest homes, homeless shelters (for a potential exception, see Section Y), hospice care facilities, communes, or other types of congregate living arrangements are excluded.
- c. Temporary transient living units in hotels, motels, or other types of group commercial dwellings are excluded.

9. In-kind Income

This term refers to the receipt of something of value in lieu of a cash payment for goods or services.

10. Income Limit

This term refers to the income guidelines based on the state median income, as prescribed by the U.S. Department of Health and Human Services and

applicable to the State of North Dakota. (See H, 1)

11. Intake Function

Intake is defined as the beginning formal contact(s) with a potential applicant to provide program information and explanations, and to provide the application form with instructions for completion and submission.

12. Outreach Function

This term is similar to the general outreach activities and processes described in Section G except that special service outreach activities are not included. To assure that all households are aware of the program and the application process, the outreach function takes advantage of opportunities to publicize the LIHEAP through a variety of publicity methods including, but not limited to, the public media, meetings and presentations, fliers and brochures.

13. Persons with Disabilities

This term includes all individuals who have a physical or mental impairment which substantially limits one or more major life activity, have a record of such impairment, or are regarded as having such an impairment.

14. Services

This term means all non-administrative activities designed to benefit the applicant including, but not limited to:

- a. Negotiating, facilitating, or otherwise assisting the household and the supplier to develop and follow reasonable payment plans.
- b. Providing energy conservation referrals, education, and information.
- c. Emergency Assistance crisis evaluation and planning, preventive services (See Section N, 1, h) and follow-up.
- d. Referrals and/or advocacy.
- e. Social and economic counseling such as credit or budget counseling, self-reliance/self-sufficiency counseling, case management services, etc.

15. Young Child

This term means all children under six years of age.

F. Summary of Administrative Process

1. Public Awareness

The outreach activities described in section G are the basic methods of assuring that eligible households are aware of the program and have the opportunity and assistance necessary to complete an application. The county social service boards and alternate outreach organizations shall distribute heating assistance application forms to all individuals upon request, and provide such application forms to fuel suppliers, Community Action Agencies, senior citizen centers or any other individuals or organizations that are willing to distribute the form to potentially eligible households.

2. Application

All applications for heating assistance must be complete, signed, and received by the county social service board by May 31. Incomplete applications will not be amended after May 31. If funds are not available, an earlier application and amendment deadline date would be established and announced through the media to suppliers, through outreach sources, etc.

The Head of the household, usually the household member responsible for payment of heating costs, will usually be the applicant for heating assistance. However, any other household member or legally appointed individual could provide the application information and documentation required and sign the form to attest to its accuracy.

The application form contains the necessary client characteristic data, fuel needs, and statement of the applicant's income and resources. Instructions for completing the application, documentation required, and the household's appeal rights and procedures are included with the application form to be retained by the applicant. Completed applications received at alternate intake sites are forwarded to the county social service board for final processing and entry into the electronic file.

A completed application includes practical documentation and verification of all information needed to establish eligibility and compute benefits. The county social service board staff will assist applicants to complete the application form, including the resolution of a hearing or language barrier problem (North Dakota subscribes to the AT&T language line), and to secure the necessary information prior to submission. Applications, including the documentation of information that must be verified, that are not completed within thirty days from the date the application form is received in the county

office may be denied and the household invited to submit a new, signed application form with the required documentation.

A short, modified application form may be used for the new (second) application. Households who are recipients of another economic assistance program administered by the same county social service board office may also submit the short application form. In such a case, all other information and documentation can be secured from the existing case file or from an electronic data processing system.

At the applicant's request, a denied application may be reinstated to correct an administrative error, to adjust for program policy changes, and other such purposes. An optional application form may be used for emergency services (See Section N.)

3. Notice of Action

All signed completed heating assistance applications will be acted upon promptly, usually within a maximum of 45 days after receipt in the county social service board office.

(See Section N, 1, e for Emergency Assistance response time.) The county social service board's determination of eligibility and information to compute

benefits is entered directly into the statewide computer file. The electronic data processing system produces a written description of the action, and it is mailed to the applicant along with fair hearing and other program information and instructions. The electronic notifications of actions on miscellaneous payments and premium assistance and Emergency Assistance requests are specially designed to describe the action, but follow the same process.

4. Household Characteristics

The county social service board will enter selected specified household characteristics directly into a statewide computer file, including a vendor identification code number.

5. Payment Process

Households eligible for heating assistance (See Section J, 2, g) who pay fuel costs as an undesignated portion of their rent will receive one or more monthly payments from the State. Households eligible for heating assistance that is less than 6% of their heating cost will receive one lump sum payment of \$50. (See Section J, 1, d) For all other heating assistance eligible households who pay fuel costs directly to a participating supplier, an electronically produced billing form ("Request for Payment") will be sent to the designated fuel supplier. This form lists all of the current LIHEAP eligible

households in the computer file that have selected the supplier, instructions, the LIHEAP's and the household's co-payment percentages, and the authorization period. The fuel supplier will enter the eligible household's total cost, type and amount of fuel, the date of delivery (meter reading date for utilities), the invoice number (if any), and indication of allowance of cash price, and return the billing form to the State Low Income Home Energy Assistance Program Office for payment. The LIHEAP co-payment is electronically computed and one check (See Section F, 6 for alternative method) with a Remittance Advice, combining all payments to this supplier, is issued. Electronic tape billing, or billing by modem will be accepted in lieu of the billing form from those suppliers who have the necessary computer capability. A new billing form will be sent to the supplier at the time a check and/or Remittance Advice is issued to the supplier. This process will continue until the end of the designated heating season, the authorized period has elapsed, or the case is closed for some other reason.

6. Prepayment to Supplier

Suppliers that provide a price discount, incentives, or supplemental services to LIHEAP eligible households may be granted a prepayment contract in advance of the heating season, of the estimated fuel costs for their customers who have been and are projected to be eligible for future LIHEAP heating assistance benefits. They will receive prorated cash advances from

October 1, 2013 through May 31, 2014. As an alternative to price discounts, suppliers may agree to provide pre-established credits for the time the prepaid line of credit is not expended. Suppliers who can demonstrate that a discounted price or extended service is not possible or would be an undue hardship may also be granted prepayments, but will not receive cash advances. Suppliers to be offered prepayments will be determined by the State Program Director based on available funds and other criteria designed to ensure efficient, cost-effective use of this option.

The LIHEAP electronic system maintains a record of the total prepayment contract amount, cash advances made to the supplier, minus debits for customer bills as they are presented by the supplier, and the resulting balance of these transactions. Suppliers who have a prepayment contract and receive cash advance payments will continue to submit actual customer bills as they are incurred, as described in Section F, 5. The electronic system will record the customer billing and payment information to the appropriate customer account and the supplier account and produce all other documents normally issued with the supplier's check. A check will not be written, unless the total of bills to be paid exceeds the cash advance balance. In that case, the check will be the difference between the cash advance balance and the total of bills to be paid.

Suppliers who negotiate a prepayment contract but do not receive cash

advance payments will bill and be paid in the same manner as suppliers who do not have a prepayment contract.

7. Miscellaneous Payments

The county social service board initiates miscellaneous payments to the eligible household or designated supplier by entering the required information directly to the computer file. Miscellaneous payments may be required in extraordinary situations such as:

- a. The LIHEAP co-payment of an eligible fuel bill owed to a different or secondary supplier.
- b. Reimbursement for the LIHEAP co-payment of an eligible fuel bill paid in full by the household.
- c. LIHEAP co-payments made directly to an eligible household when the fuel supplier elects not to participate in the Low Income Home Energy Assistance Program.
- d. Other special circumstances.

8. Premium Heating Assistance Payments and/or Emergency Assistance Payments (See Section J and N)

Premium heating assistance payments (See Section J, 1, i) and/or emergency assistance payments (See Section N) to eligible households or designated suppliers are initiated by county social service boards by entering the required data directly into the computer file.

9. Benefit Revisions and Case Closing

All factors in a heating assistance eligible household's electronic file may be changed, or the case may be closed, by entering corrections or additional factors directly to the computer file. The heating assistance file will close automatically at the end of the authorization period and at the end of the heating season. A notice of action form is electronically produced and mailed to the eligible household (and supplier, if appropriate) to describe the change of benefits or reasons for closing. This form also advises the eligible household to contact the county social service board office to resolve any questions or to apply for emergency assistance if needed. To provide an accounting of benefits paid, a report of payments letter is electronically prepared and mailed 30 days after the case is closed, after the end of authorization period, or after the end of heating season.

G. Outreach

1. Purpose

The county social service boards are responsible for outreach activities for the heating assistance and emergency assistance components of the Low Income Home Energy Assistance Program (See Section O for the Weatherization component). Aging Services area coordinators and regional community action agencies provide alternate sites for the general outreach function. (See Sections B, 2 and E, 11.) The purpose of the outreach activities is to assure that all potentially eligible households, including those that may have a language barrier, are informed of the heating assistance and Emergency Assistance components of this program and have the opportunity to submit an application. The county social service office will also assist households to complete the application process as necessary. All outreach activities will emphasize reaching those households that include at least one elderly person or person with a disability.

2. General Outreach - Public Information

Major newspapers, radio stations, television stations, and local weekly newspapers will be utilized, as appropriate, to provide periodic news releases

and program advertisements. Posters, fliers or other forms of printed information will be available for display by utility companies, major fuel suppliers, social service board offices, senior citizen centers, day care centers and any other community agency and public place available and willing to display such information. An informational brochure will be distributed to all individuals who inquire about energy assistance and may be mailed directly to recipients of other cash assistance and service programs. This informational brochure is available to utility companies and major fuel suppliers upon request for distribution to their customers or as a guide to design a special brochure for their customers.

3. Special Outreach

The county social service board offices may assist households to understand, document, or otherwise complete the application for submittal as necessary, especially when a member of the household is elderly or disabled. Special outreach activities for heating assistance and emergency assistance may include:

- a. Providing application assistance in the applicant's home, at alternate application sites in outlying communities, Senior Citizen Centers and other appropriate locations as necessary

- b. Mailing application forms with instructions and all necessary information
 - c. Providing application assistance through personal and telephone contact
 - d. Scheduling appointments for the convenience of applicants
 - e. Providing extended office hours when necessary
 - f. Arranging for communication assistance, if necessary, for applicants who are non-English speaking or who have a communication disability.
 - g. Procedures for after-hour emergency applications that will provide at least minimal immediate heating and/or emergency assistance.
4. Other Programs - Outreach

The agencies and organizations that administer energy related programs under Subtitle B of Title VI (Community Services Block Grant) and other programs under the Economic Opportunity Act of 1964 that were administered prior to the enactment of the Low Income Home Energy Assistance Program will continue to provide all outreach activities for those programs. Outreach efforts can be coordinated, such as providing printed information received from such programs to applicants of LIHEAP.

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.

I. Usage and Cost of Home Energy

1. Purpose

- a. The usage and cost of home energy in this State Plan is limited to heating fuel costs and used to determine heating assistance benefits only. The home energy cost for emergency assistance purposes is determined at the time the crisis occurs and is defined as the cost necessary to resolve the home energy crisis. (See Section N)

2. Cost/Consumption Tables

- a. Cost/consumption tables are based on actual cost and consumption data reported for LIHEAP recipients in the LIHEAP data system. Billing data reported directly from fuel suppliers, either electronically or on paper billing statements, is used to determine the cost of heating a dwelling/residence for the entire heating season. Billing data (i.e., total amount billed to client) is determined by several factors, including fuel consumption, cost of fuel, temperature/heating degree day data, the heating values of various fuels, and furnace efficiency factor for various fuels. Billing data therefore accounts for these factors in a single number/value.

- b. Using actual billing data from the four most recent federal fiscal years (i.e., heating seasons), a distribution of total amount billed is generated, and values at the 95th percentile are identified. Using these 95th percentile values, a single cost/consumption table is produced for the entire state, based on various sizes of living units, various types of buildings, and various types of fuel.
- c. Accurate consumption/cost data are not available for wood, coal, and other miscellaneous types of fuel, due to the very small number of LIHEAP recipients with these primary fuel types. Therefore, consumption and cost rates are best negotiated with the individual household on a case-by-case basis, using the previous year's usage and cost data. If not available, the natural gas rate will be used to compute benefits.

J. Heating Assistance Benefit Determination and Payments

1. Benefits

- a. Heating assistance benefits are an individually determined percentage of the eligible household's actual heat cost incurred during each eligible month of the heating season, October through May. Heating fuel and some incidental charges may be included in the household's cost of heat.
- b. The household is responsible to pay an affordable percentage of the actual heat cost. The amount each household can afford to pay for heat cost is based on family size and income:
 - (1) One percent of the household's adjusted annual income if that income is less than or equal to one-third ($1/3$) of the income eligibility limits described in Section H, 1, or
 - (2) Two percent of the household's annual income if the income is more than one-third ($1/3$) but less than or equal to two-thirds ($2/3$) of the income eligibility limits described in Section H, 1, or
 - (3) Three percent of the household's adjusted annual income if the income is more than two-thirds ($2/3$) of the income eligibility limits described in Section H, 1.

- c. The household's percentage share is the amount described in b above, divided by the estimated cost of heat from the cost/consumption tables described in Section I, 2, and rounded down to the nearest 5%. The remainder is the LIHEAP percentage share of the actual heat cost. Some households can demonstrate that they maintain home temperatures higher than anticipated in the cost/consumption tables due to age, disability, or health problem. If so, the household's percentage share will be based on the higher estimated cost of heat. Therefore, benefits take into account family size, income, and heat cost so that the greatest amount of assistance is provided to households with the lowest income and the highest energy costs.
- d. The maximum LIHEAP percentage is 95% and the minimum LIHEAP percentage share is 10%. Eligible households whose LIHEAP percentage calculates to less than 6% will receive a one-time, \$50 cash benefit. These limits will assure that the eligible household will always pay a portion of each heat bill. The total amount paid for households whose heating bills include non-residential heating costs will not exceed the amount of that household's Estimated Cost of Heat multiplied by their calculated LIHEAP Share Percentage. All households that meet the heating assistance eligibility criteria in any month of the year may be provided any of the defined services and/or

premium assistance, as needed, anytime through September 30, 2014, the end of this federal fiscal year. See Section N for Emergency Assistance Eligibility Criteria.

- e. Under no circumstances will the LIHEAP percentage share be applied to the cost of fuel purchased before October 1, 2013, or after May 31, 2014. For eligible households, heating assistance will be authorized to begin on the first day of the month that an application was received in the county social service board office or retroactive to include all the months after October 1 that eligibility can be established. The authorization period will usually continue until May 31, if sufficient program funds are available, but the county social service board may terminate authorization at an earlier date if there is reason to believe the applicant household's situation will change to the extent that eligibility will terminate prior to May 31. The household is responsible for 100% of the fuel costs incurred during any unauthorized or ineligible month.
- f. Renters are defined as those eligible households that pay their fuel costs as an undesignated portion of their rent. To assure renters and owners are treated equitably, benefits for renter households are computed by subtracting the household's affordable heat cost described in b above from the cost/consumption tables in Section I, 2 or 25% of the annual rent cost, whichever is lower. The result is divided by 8 to obtain a monthly benefit amount and then multiplied by

the number of eligible months. To be treated equitably, benefits for those renters who rent "sleeping rooms" only are based on one-fourth of the cost/consumption tables for a one bedroom living unit in a single detached house, not to exceed 25% of annual rent costs. A sleeping room is less than a complete living unit.

- g. The household is required to report and verify, within 10 days of occurrence, changes that occur after the initial eligibility certification in the number of household members, residence, type of heat, rent subsidy status or assets. A household's benefits shall be recomputed, using the reported information and any changes to income that have occurred since the initial application. The effective date of the change shall assure fair treatment and proper notification to the affected household and supplier.
- h. Whenever an appropriate household benefit level cannot be determined within the provisions of this section, the State Program Director will assign a benefit level based on benefit levels received by similarly situated households.
- i. Households that were eligible to receive regular heating assistance (See Section H) may request and receive premium heating assistance for the purposes described in 1), and 2), below. Payment of authorized premium assistance is initiated by entering the required data directly into the electronic payment system by the county social service board representative. Supporting documents are retained in

the county office files. An electronic "Notice of Action" is automatically sent to the household-designated supplier to certify to the premium assistance authorized.

- (1) Necessary furnace cleaning, maintenance, and tune-up to prevent a heating crisis and promote safety and energy conservation. This additional benefit is limited to \$150 per household per season, except an additional \$150 may be granted if chimney cleaning is included. The household must have been eligible for Heating Assistance in any month of the current federal fiscal year.
- (2) The State Program Director may authorize the purchase and installation costs of energy cost reduction or conservation devices such as electric sub-meters, electronic controllers and conversion to lower cost fuels. Authorization is based on heating assistance eligibility, total cost, estimated savings, payback period, etc.

2. Payments

- a. The method described above, by which benefits are determined, permits a system of co-payments (the household's percentage and the LIHEAP percentage), for each heat cost bill incurred in an eligible month throughout the heating season.

- b. The state will make the LIHEAP co-payments to fuel suppliers on behalf of an eligible household whenever the supplier agreement has been signed by the supplier and the household that uses the fuel has the ultimate responsibility to pay the fuel costs. Co-payments will continue until the authorized period has elapsed, the case has been closed or the heating season is completed. The supplier submits the total cost of the heat bill to LIHEAP, and the co-payment (the designated LIHEAP percentage) will be made directly to the supplier. The household also makes its co-payment directly to the supplier. In extremely unusual circumstances, the State Director of LIHEAP may authorize a third party payee or two-party checks.
- c. Heat costs are limited to the primary residence occupied by the eligible household. In addition to the fuel cost, the heat costs may include required incidental costs such as connection or disconnection, tank rentals, delivery, etc. Only electrical heat costs will be separated from non-heat electrical costs by an appropriate prorate or through readings of a second sub-meter for heat only. (The maximum LIHEAP percentage will be prorated accordingly.) For other types of fuel, it is not possible or practical to separate heat cost from the cost of fuel used for other purposes, and will not be required.
- d. Only fuel purchased during the household's period of authorization that was not paid by the household will be paid by the State to the supplier. Exceptions may occur when necessary to correct errors, support even

monthly payment plans, (see F below) and other purposes approved by the State Director.

- e. Eligible households that paid the total fuel costs or purchased fuel from a supplier who has not elected to participate in the Low Income Home Energy Assistance Program will receive direct co-payments. Such households submit bills received from or paid to a fuel supplier to the county social service board.
- f. To ease their co-payment obligation, households are encouraged to enter into "even monthly payment plan" agreements with their supplier. The supplier continues to submit the household's total heat cost to the state to receive the LIHEAP percentage share co-payment. The supplier and the household arrange the disposition of credit, or the need for additional payments to equal the household's share percentage co-payment.
- g. Eligible households identified as renters, with their costs paid as an undesignated portion of rent, will receive one or more monthly payments. The household's benefits (see Section J, 1, f) are usually prorated throughout the authorization period to determine the amount of the monthly payments.
- h. Households who are eligible only for the minimum \$50 benefit (see Section J, 1, d) will receive a one-time lump sum cash payment.

3. Duplicate Payments

No duplicate Heating Assistance or Emergency Assistance payments to an eligible household, or to a fuel supplier on behalf of the eligible household will be made for the same fuel or other cost. Substantial edit checks are programmed into the data processing system to identify and reject duplicate payments. Further, the Low Income Home Energy Assistance Program administrative agencies for the four Indian tribes of North Dakota may volunteer to submit lists of names and Social Security numbers of the heads of the eligible households that they serve. This data will be compared with the names and Social Security numbers of the eligible households served under the State's Program to identify potential duplicate payments.

4. Erroneous Payments

- a. Erroneous Heating Assistance or Emergency Assistance payments may be underpayments or overpayments and may occur for a variety of causes such as fraud, misrepresentation, failure to report changes, supplier errors, administrative errors, etc. The electronic data processing system has the capability to adjust the co-payment percentages, make supplemental payments or credit refunds to the household file and supplier file.

- b. Underpayments will be reported and adjusted as soon after discovery and verification as possible.
- c. Overpayments to a supplier or household, due to suspected fraud, will be referred to the county attorney for possible legal action and, if accepted and prosecuted, recovered as prescribed by legal authorities.
- d. The fuel supplier will refund any overpayments due to the supplier's error immediately after discovery and verification.
- e. The county social service board will notify eligible households in writing through the electronic "Notice of Action" system of the cause and amount of overpayment made to or on behalf of a household. Full and immediate repayment is expected, but if not possible, a schedule of payments up to the end of the next federal fiscal year may be negotiated. The current and/or following year co-payment amounts or percentages could also be adjusted for this purpose through the miscellaneous payment process that is computed and entered by the county social service board.
- f. Collection efforts and/or payments may be temporarily suspended or permanently discontinued if it is determined by the State Program Director that:
 - (1) Full or partial repayment would be an extreme or undue hardship to the household;

- (2) The overpayment is small, realistic installment payments are small, and/or collection costs are too great to be cost effective.

The household will be notified in writing whenever payments or collection efforts are suspended or discontinued, including any special conditions, reasons, and time limits. Debt cancellation is not permitted and therefore, repayment is expected whenever the household is able.

5. Supplier Prepayments

Suppliers who provide cash price discounts, incentives, supplemental services or pre-established credits on a line of credit may be granted the LIHEAP benefit paid in advance of the actual heat cost. Suppliers who can demonstrate that a price discount or supplemental service is not possible or would be an undue hardship may also be granted prepayments. (See Section F, 6.)

K. Supplier Agreements

1. Standard Agreement

The fuel supplier will be required to sign a standard agreement statement that is included on the Heating Assistance billing form. Suppliers who submit electronic tape in lieu of the Heating Assistance billing form will sign the same agreement but in letter form. The standard agreement will commit the fuel supplier:

- a. To charge the eligible household, in a normal billing process, the difference between the actual cost of the home energy and the amount of payment to be made by the State. (The household's co-payment)
- b. To give assurance that no household receiving assistance under this program will be treated adversely because of such assistance under applicable provisions of State Law or public regulatory requirements.
- c. Not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made.
- d. To cooperate in reviews or audits of LIHEAP payments, and to refund to the State any over-payments.

2. Prepayment Agreement

Suppliers who are granted prepayments will be required to sign a contract agreement. Such statements that are necessary to ensure proper crediting to customer accounts and security of the prepaid funds will be included in the prepayment agreement. These suppliers will also sign the standard agreement as bills are presented for fuel purchased by individual customers.

3. Violations of Agreement

Violations of the agreements due to suspected fraud or other criminal action will be referred to the county attorney for action. Other agreement violations may be cause to suspend the supplier from participating in LIHEAP or the program director may prescribe other appropriate action.

L. Notice to Eligible Households

1. Certification Notice

Households eligible for heating assistance and/or emergency assistance will receive an electronically produced "notice of action" at the time their eligibility and benefits have been determined. This form will include co-payment percentages and duration of benefits, right to appeal, and all other necessary explanations.

2. Notice of Denial

The electronic "notice of action" system will also notify applicant households whenever their application for heating assistance and/or emergency assistance has been denied. This notice includes the reasons for denial and the applicant's rights and instructions for an administrative fair hearing.

3. Notice of Changes or Closing

The electronic "notice of action" system will also send the eligible household (heating assistance only) a notice whenever a change occurs in their eligibility or benefits, the authorization period is complete, or when their case is closed

by the county social service board. The reasons for the change or closing and the applicant's right to an administrative fair hearing are included. If the case is being closed, a report of payments letter itemizing all payments made on behalf of the household is mailed later. Emergency assistance cases are opened for one action only and therefore are closed at the same time the approved action and payment occurs.

4. Notice of Specific Payments

A notice detailing specific payments to be made is sent to the household (and supplier when appropriate) whenever miscellaneous, emergency, or premium payments are entered into the computer payment system by county or state office workers.

5. Overpayment Notice and/or Agreement

A notice is sent to the household through the electronic "notice of action" system whenever an overpayment to the household is suspected. The notice includes an explanation of the disputed information that may have caused the overpayment, invites the household to clarify, and provides information about the right and process to appeal.

A separate Agreement Notice is sent for the household's signature when a

repayment plan has been discussed and agreed upon.

6. Optional Notes

For ease of communication with applicant and/or eligible households, other optional notices can be produced electronically. A "Free Form" notice can be issued at any time to provide information and instructions. A special "Request for Information" may be issued when an application is received if additional information and documentation is needed before processing further.

M. Coordination

1. Distribution of Information

Energy-related program brochures or other forms of printed information will be solicited from agencies designated to administer programs of energy conservation or low-income weatherization or any other energy-related programs. Available energy conservation information will be provided to heating assistance recipients and to all individuals that inquire or apply for heating assistance when requested. In addition, printed information describing the energy audit conducted by utility companies can be provided to appropriate low-income households, if available. Conversely, the LIHEAP brochure will be available to all applicants and available for distribution through related programs and organizations.

2. Social Service and Economic Assistance Programs.

Each of the county social service boards is also responsible to administer TANF, SNAP, Medicaid, and Title XX and other service programs. Therefore, the county social service boards can assure that these programs and energy programs are fully coordinated.

3. Weatherization Services and Energy Conservation

All heating assistance applicants will be referred for a Comprehensive Energy Conservation Program that is provided by Weatherization Coordinators in community action agencies, as described in the OEA/DCS agreement (see Section O, 2). The program may include:

- a. An initial contact by the Weatherization Coordinator to explain the program and encourage voluntary participation.
- b. A home energy conservation assessment and individual Action Plan.
- c. Energy conservation lifestyle analysis and education.
- d. Recommend specific services as needed, such as:
 - (1) All or any portion of DOE/LIHEAP Weatherization Services
 - (2) Chimney and/or furnace cleaning and tuning
 - (3) Minor furnace repair or replacement of inefficient/inoperable heating systems or water heaters
 - (4) Minor home repair to prevent heat loss.
- e. Follow-up contacts for reassessment and for program evaluation.

4. Case Management Services (CMS)

The Community Action Agencies have established a Self-Reliance Service Program statewide that includes Case Management Services (CMS). The county social service board representative may authorize the LIHEAP purchase of CMS for households that have the potential to achieve a higher degree of self-sufficiency. Case Management Services include an employability and social functioning assessment, barrier and strengths identification and specific action plans such as training, referral for counseling, supportive relationships, advocacy, motivation, budget controls, etc. The services are evaluated and periodic progress reports are submitted.

5. Energy Share of North Dakota

Energy Share of North Dakota is a private fuel fund corporation. The Board of Directors includes a representative from each of three major public utilities, the Rural Electric Cooperatives, and the public. Energy Share funds are donated by the stockholders and customers of the public utilities and rural electric cooperatives. Households ineligible for LIHEAP due to excessive income/assets or households that need assistance outside the scope of LIHEAP are referred to the Energy Share Program.

Due to limited Energy Share funds, the amount of assistance provided or the

number of times assistance is provided must be limited. The program is administered through contract with the community action agencies and integrated with Weatherization and Self-Reliance Services when appropriate.

Energy Share and the LIHEAP enter into an annual agreement to assure the coordination of benefits, services, and administrative procedures. Energy Share has accepted responsibility for the LIHEAP Emergency Assistance obligation described in N, 2, e, non-heat electrical costs. Energy Share provides the needed assistance for LIHEAP eligible households from Energy Share funds until such funds are depleted. After that, Energy Share continues to administer this Emergency Assistance service, and certifies the payment to be made by LIHEAP from LIHEAP funds.

6. Leveraging Non-federal Funds

As provided in 2607(A) (C) (2), the state may spend up to \$35,000 each fiscal year to identify, develop, implement and monitor leveraged non-federal resources that will result in increased benefits for LIHEAP eligible households.

- a. All state general funds appropriated to the LIHEAP program, if any, are identified specifically in the Department of Human Services' biennium appropriation and will increase the amount of heating assistance,

emergency assistance or weatherization benefits that can be provided to LIHEAP eligible households.

- b. The North Dakota Division of Community Services has been designated to receive petroleum violation funds. A portion of these funds may be added to the basic LIHEAP allotment, which will result in an increase in benefits available to eligible households.
- c. Propane and fuel oil suppliers throughout the state offer a "cash price" discount to all of their customers if their charges are paid within a specified period after delivery. Because LIHEAP payments on behalf of LIHEAP eligible customers are guaranteed, and because LIHEAP payments are prepaid or normally issued within a week of receipt of a valid bill, the LIHEAP eligible customer will usually qualify for the discount. Consequently, co-payments are reduced and additional LIHEAP benefits can be provided.
- d. Electric and natural gas suppliers may provide comparable incentives or supplemental services that add to the value of LIHEAP payments.
- e. All Energy Share funds used to provide emergency assistance for non-heat electrical costs (see Section M, 5 above) reduce the amount of LIHEAP funds used for this purpose. LIHEAP funds can be diverted to provide additional heating assistance, emergency assistance or weatherization benefits to LIHEAP eligible households.

To identify and develop additional leveraged non-federal resources, the state may incur expenses in the development and maintenance of

a low-income home energy consortium. Such a group will include representatives of the LIHEAP, the Public Service Commission, the several public utility companies, rural electric co-operatives, fuel and propane dealers, private fuel funds, consumers and other appropriate organizations.

N. Emergency Home Energy Assistance

1. Introduction to Emergency Assistance
 - a. Emergency Home Energy Assistance is a distinct program separate from Heating Assistance, except that the general provisions of this plan are also applicable to Emergency Assistance, unless otherwise described separately.
 - b. The State will set aside \$900,000 of the LIHEAP funds for emergency assistance. Additional funds can be set aside if necessary or the unspent portion of the funds set aside can be used for other LIHEAP expenditures or reserved for use in the next federal fiscal year.
 - c. Requests for emergency assistance may be received and processed by the county social service office, throughout this federal fiscal year, October 1, 2013 through September 30, 2014.
 - d. Emergency home energy assistance is defined as assistance to low income households necessitated by weather related or supply shortage emergencies or because the household is unable to secure home energy for financial or other reasons. Home energy is defined as a source for heating or cooling a residential dwelling. Costs and assistance provided may include other energy usage if separation is not possible or practical.

- e. Emergency Home Energy Assistance is not an entitlement program based on income only, but rather the economic and social situation of each individual household must be assessed to identify, approve and provide the appropriate type of service and/or assistance.
- f. All other appropriate available community and personal resources and personal liquid assets are to be considered before Emergency Assistance is provided; or the other available resources may be used in combination with Emergency Assistance.
- g. Energy conservation or any of the defined services may be suggested or required as a condition to the receipt of Emergency Assistance.
- h. Early identification and crisis prevention is considered essential. "High risk" households may be identified when the heating assistance application is received; or a utility or other fuel supplier may establish appropriate procedures to refer a household when a serious payment problem is first discovered. Households in need of emergency assistance are encouraged to submit early requests, although most households wait until a crisis is imminent or a shut off has occurred. Preventive service interviews may be provided to:
 - (1) Identify the crisis causative factors;
 - (2) Update information related to the household potential crisis;
 - (3) Inform the household about the emergency and other assistance available, payment options or other financial management measures;

- (4) Encourage and assist the household to develop and honor realistic payment agreements with the supplier; or
 - (5) Purchase, provide or refer for necessary defined services.
- i. Each county social service office has established emergency procedures to provide an immediate response to a reported crisis within 18 hours of the report, if the crisis is life threatening, but no later than 48 hours of receipt of any request for emergency assistance. Emergency procedures include home visits when necessary, counseling, referrals, communication with suppliers, or other services, and a 24 hour telephone number for requesting aid or reporting a crisis.

2. Types of Emergency Assistance

- a. Supplemental heating assistance, including unavoidable mandatory finance and other incidental charges, for households that are financially unable to pay all of the household's percentage share of a heat bill. The emergency assistance component may be used to justify re-computing the basic heating assistance benefit level if the financial shortage is expected to be long-term, or it may be used to pay the amount needed to resolve the current crisis, or a combination of both options.
- b. The repair or replacement, whichever is appropriate and cost effective,

of a defective, inoperable, or unsafe heating system or water heater or a severely inefficient heating system or water heater for an eligible homeowner or an eligible renter with verifiable responsibility for such costs may be provided, depending on the availability of funds, weatherization or other resources, expected payback, and other related factors. The heating system includes chimney, air ducts, burners, tanks, pipes and all other components necessary to produce heat safely and efficiently.

- c. Minor home repairs or replacement components (excludes additions) to prevent the loss of home energy in the living unit of an eligible homeowner or a renter with verifiable responsibility for such costs.
- d. Temporary shelter, temporary heating or cooling devices and/or other consumer type goods that may be needed to protect household members from a severe loss or lack of home energy.
- e. The state may delegate some or all of the responsibility for delivering the services described in b, c and d above by administrative agreement with the Division of Community Services. Such agreement may permit these services to be delivered on the state's Indian reservations.
- f. The costs necessary to prevent the loss of or to restore electrical service for an eligible household.

The ND Energy Share Program has assumed responsibility for

assistance with the non-heat electrical costs for households that use a type of heating fuel other than electricity, with LIHEAP supplementation when needed (see Section M, 5). If needed, LIHEAP eligibility for Emergency Assistance for such costs (see 4 below) will be based on the Energy Share application, investigation, recommendation, and approval rather than a referral and duplication of these administrative efforts.

- (1) Households that use electricity for heating fuel may be eligible for supplemental heating assistance described in a. above. These crises cannot be resolved until the payment of the total electric costs, heat and non-heat, are arranged.

3. Costs ineligible for Emergency Assistance

- a. Emergency Assistance is limited to the eligible household's current living unit.
- b. Combined bills, and/or meter readings, for residential and non-residential energy usage must be reasonably separated and justified. If not, the residential portion eligible for Emergency Assistance will be limited to \$200 or 25% of the total cost, whichever is less.
- c. Home energy deposits are ineligible. Emergency Assistance payments may be authorized in advance, in lieu of a deposit, to maintain service and also to provide the household an opportunity to

accumulate the required deposits from its own funds.

- d. Payment of arrearage is ineligible. Arrearage is defined as the unpaid costs for home energy described in 2,a and 2,e above that were incurred at least 90 days prior to the Emergency Assistance request (or no more than the three most current monthly meter readings if the cost is a Rural Electric Cooperative bill). Conversely, costs incurred within 90 days prior to the request for assistance are not considered arrearage. Eligible households and home energy suppliers are expected to negotiate and agree to a reasonable deferred payment plan for arrearage. Although arrearages are not paid directly, LIHEAP Emergency Assistance may assist the household to fulfill their obligation under the terms of the deferred payment plan. (See 4,d below.)
- e. Costs for water, sewage, garbage, telephone, etc. are not within the definition of Home Energy and not eligible for LIHEAP emergency assistance.
- f. Current costs will not be eligible for Emergency Assistance if such payment will not maintain or restore home energy service.

4. Application and Eligibility

a. The county social service board will determine Emergency Assistance eligibility and benefits for all types of emergency assistance described in 2 above and for all applicant households. (See 2e above for a potential exception.) To be eligible for Emergency Assistance, a household's income and assets must first be within the heating assistance limitations described in Section H during the heating season or at the time emergency assistance is requested. Next, to permit the flexibility necessary to assure Emergency Assistance is provided as necessary to resolve a crisis, or withheld whenever the Emergency Assistance requested would not satisfactorily resolve the crisis, the following additional eligibility factors are prescribed as general guidelines rather than mandatory conditions:

- (1) Except for supplemental heating fuel (see 2a above), assistance available from other community resources should be utilized first, if practical. Or, the other community resources may be combined with Emergency Assistance to resolve the crisis.
- (2) Unless an exception can be explained and justified, the available personal resources of the household should be used first to resolve the crisis. Personal resources include current net income, available secured or unsecured loans, credit, available

deferred payment plans, and the non-exempt liquid assets of the household (See Section H, 2), except \$5,000 for each household member age 60 and over.

- (a) The cost of the household's basic shelter, food, medical, utility, child care, employment, transportation, general hygiene, cleaning, personal supplies and other essential living expenses are first deducted from the household's net income and other available resources.
 - (b) Net income means the actual amount of funds received by the household from all sources after mandatory deductions and withholding. Sources of income exempt by law, children's earned income, or income restricted to a specific expense is not considered available to the household for home energy costs.
- (3) The good faith efforts of the household, and energy supplier if appropriate, to avoid or resolve the crisis should be apparent. A budget payment plan or other formalized Action Plan to avoid future crises may be required.
- (4) The purchase, provision, or referral for case management services or other defined service may be required in order to limit the possibility of the crisis reoccurring.
- b. An actual or potential crisis should be so apparent that verification is not necessary. A crisis may occur whenever the household is without

the home energy needed or can demonstrate the potential of being without the home energy needed.

- c. The Emergency Assistance application form should be used whenever possible, but a written or verbal request by telephone, letter or direct contact will also qualify as an emergency assistance application. Most households requesting Emergency Assistance will have completed an application for, and received, heating assistance. Other households must complete the heating assistance application form at the time of their request for emergency assistance.
- d. The following additional factors should be considered when a household requests assistance to fulfill their deferred payment plan obligations:
 - (1) Amount owed and date incurred.
 - (2) The household's effort and ability to pay these costs at the time they were incurred.
 - (3) The household's effort and cooperation to secure payment from an absent household member if that person was responsible for these costs when they were incurred.
 - (4) The household effort to negotiate and honor a previous reasonable payment plan with the supplier.
 - (5) The energy supplier's collection efforts and cooperation in extending credit and offering a reasonable payment plan.
 - (6) A reasonable expectation that such payment will resolve or

alleviate the household's payment problem.

5. Benefits and Payments

- a. The county social service board will determine the amount of Emergency Assistance benefits needed by each eligible household to resolve the crisis. Benefits that exceed a specified limit require the approval of the State Director.
- b. The benefits may be used to purchase the home energy service needed, or to supplement or be combined with other resources to resolve the problem, or to assist a household to fulfill its obligations in a reasonable deferred payment plan. Benefits include the provision, referral for, or purchase of services needed to resolve a problem.
- c. Emergency Assistance payments may be made directly to the eligible household or the appropriate supplier, or, with the approval of the State program director, to both parties jointly, or to a third party. Written cost estimates, bills or payment plans must be observed or retained and verified by the county social service board. The payment is initiated by entering the appropriate information into the electronic data system by the county social service office.
- d. An electronic Notice of Action will be sent to the household and supplier (if appropriate), to certify the emergency eligibility and benefit decision.

6. Administrative Review

Emergency assistance applicants have the right to request an administrative review of the county representative's eligibility and benefit decision. The review will be conducted by a higher level county social service board official such as the county LIHEAP Supervisor, the county Director, or by the Board. The applicant retains all rights to the Administrative Fair Hearing process described in Section V before or following this review.

O. Low Cost Home Weatherization and Other Energy Related Home Repairs

1. Funding and Time Period

The amount of funds available for low cost home weatherization and other energy related home repairs, up to a maximum of 15% (or 25% if a waiver is requested and approved) of the gross state allotment or funds available, whichever is greater, including petroleum overcharge funds, will be determined as soon as accurate projections for higher priority expenditures can be secured. (If the level of federal funding permits, and heating assistance benefits would not be jeopardized, the North Dakota LIHEAP intends to maintain weatherization funding at a minimum of 15%.) LIHEAP funded weatherization services would be available for the remainder of the fiscal year, or until the obligated funds have been expended.

2. Administrative Agreement

The North Dakota Division of Community Services is currently authorized to receive Department of Energy Funds to administer a program of weatherization services. Therefore, the Department of Human Services and the Division of Community Services will enter into an agreement to describe

the conditions for the use of LIHEAP funds, including petroleum overcharge funds, by the Division of Community Services for Weatherization Services and low cost home repair. The agreement will authorize all weatherization services included in the DOE State Plan plus such additional and/or alternative weatherization services, policies and methods as may be needed for LIHEAP eligible households, including the Comprehensive Energy Conservation Program described in Section M, 3. The agreement states the assurances required by Section 2605 (b) of the Act will be carried out in accordance with DOE Regulations and State Plan. Fair hearing procedures and the amount of funds designated for weatherization services and low cost home repair will also be in the agreement. The provisions of the agreement shall supersede and prevail over any provision of this plan that may conflict, especially in relation to the use of petroleum overcharge funds.

P. Distribution of Grant Funds by Priority

1. All funds reserved in the immediate past federal fiscal year for use in this federal fiscal year shall be expended as early as possible. Refunds of expenditures made in the immediate past federal fiscal year that are received during this federal fiscal year, shall be added to the amount reserved for use in this federal fiscal year. Refunds of expenditures made in any other prior federal fiscal year, received during this federal fiscal year, shall be returned to the Payment Management System of the Federal Department of Health and Human Services.

2. Exxon and other Petroleum Overcharge Funds:

Petroleum overcharge funds may be added to other LIHEAP funds to assure that one or more of the provisions of this plan, and subsequent amendments, can be fully implemented. Such funds shall be integrated with all other funds and expended in accordance with this Plan of Operation. Until assigned to LIHEAP, these funds are allocated and controlled by the Governor through the North Dakota Division of Community Services who shall retain responsibility for the required reporting, audits, public hearings, and other Court or Department of Energy imposed requirements.

3. Heating Assistance Grants and Services and Administration:

Heating assistance grants and services to or on behalf of individual eligible households, and the necessary administration costs, will have first priority. Based on FFY'11 and FFY'12 cost and case load data, and in view of the provisions of this Plan and the expected fuel cost, it is estimated that approximately 15 million dollars will be needed to provide home heating fuel and services for eligible households and for statewide administrative costs for this federal fiscal year, October 1, 2013 through September 30, 2014.

4. Emergency Assistance:

Next, \$900,000 will be set aside for Emergency Assistance payments as described in Section N above.

5. Weatherization:

If available, up to fifteen percent (15%) (or 25% if a waiver is requested and approved) of the State's allotment and petroleum overcharge funds will be set aside for low income home weatherization and other energy related home repair programs. LIHEAP funds utilized for low-income home weatherization and other home repair will be expended in accordance with Section O of this Plan.

6. Cooling Assistance Program

Any funds obligated for a cooling assistance program will depend upon the availability of funds after other priorities have been fulfilled and the existence of unusual cooling needs due to weather conditions. The amount of funds obligated, if any, will be specified in a written notification to HHS/DEA that the state will implement a cooling program.

7. Shelter Energy Assistance Program

Any funds obligated for a shelter energy assistance program will depend upon the availability of funds after other priorities have been fulfilled and the existence of unusual energy needs due to weather conditions. The amount of funds obligated, if any, will be specified in a written notification to HHS/DEA that the state will implement a shelter energy assistance program.

8. Reserve

All funds not expended for each of the purposes described above, will be held in reserve for use in the next program year. The total amount of funds reserved will not exceed 10% of the federal grant payable to the State plus all oil overcharge funds.

Reserving funds for use in the next program year will permit the State to determine eligibility and authorize fuel purchases by low-income households as early as October 1 of each year. The small fuel dealers in North Dakota do not have the credit or cash reserves necessary to permit delayed payments. In addition, the eligibility and benefit reductions that are necessary whenever the total funds available to the State are reduced will be less severe if funds can be reserved from a previous fiscal year.

All funds reserved from this federal fiscal year for use in the next federal fiscal year may be used for any LIHEAP expenditure. However, the amount of funds reserved that may be used for administration or Weatherization purposes in the next federal fiscal year will be limited to the difference between this year's expenditure and the maximum permitted for these costs.

Q. Benefits Excluded as Income

The amount of any low income home energy assistance payments or allowances provided to an eligible household under this Plan shall not be considered income or resources of such household or any member thereof, for any purpose under any Federal or State law, including any law relating to taxation, SNAP, public assistance or welfare programs unless enacted in express limitation of this prohibition.

R. Administrative/Service Costs

Administrative costs and service costs are efficiently separated in a manner that is consistent with the Department's approved cost allocation plan, past precedent and the administrative practices of other Department programs. The Department's statewide random moment time study system will determine the local LIHEAP staff time spent on service activities and administrative responsibilities. The percentage of time spent on services and on administration is applied to the total State and county direct and indirect costs. The final result is a separation of service and administrative costs equal to the time spent directly on, or in support of the defined services or administrative activities (See Section E, 12, Definition of Services).

The State agrees to use no more than 10% of the funds payable to the State plus petroleum overcharge funds and leveraging incentive funds for planning and administrative costs for all energy assistance programs described in the Plan. If actual costs of administration are less than the 10% limit, the remainder will be reserved for administrative costs in the next federal fiscal year. Administrative costs that exceed this 10% limit will be paid from non-federal sources.

S. Control of Fraud, Waste, and Abuse

1. Responsibility for Monitoring

The State Low Income Home Energy Assistance Program Director and staff will monitor heating assistance and Emergency Assistance continuously. Monitoring reports from Economic Assistance central office and field staff are reviewed. Reports from the county social service boards' supervisors and staff, on-site visits to local offices and suppliers, and/or through fiscal and recipient data from the electronic data processing system may also provide information. Corrective action plans are initiated appropriately.

2. County Social Service Boards

County social service boards will determine that fuel suppliers and recipients follow instructions, agreements and program regulations. Violations shall be resolved by the county social service board or, if necessary, referred to the State Program Director. The county social service boards shall maintain records of all reviews, violations, negotiations, and corrective actions. The individual household case files maintained by the county social service boards are the official program case files and will contain complete applications, worksheets, case action forms, and such correspondence,

receipts and other forms or documents necessary to support and explain eligibility, authorization periods, and benefit decisions.

3. Central Office Staff

The State LIHEAP program administrative staff and/or other appropriate central office staff may visit selected county social service boards and energy suppliers throughout the federal fiscal year to review individual case files, supplier payment and billing records, observe administrative operations, and solicit observations and comments. Corrective actions will be recommended in writing, with follow up reviews conducted by the Economic Assistance Regional Representatives or county staff.

4. Random Sample

In addition to closing notices, the electronic data processing system will periodically select a random sample of fuel assistance recipients and send a request for verification that fuel costs paid by the State were for fuel received by the recipient household. County social service board staff will resolve discrepancies. Other random samples for monitoring purposes may be planned and initiated as necessary.

5. Payment Adjustments and Recovery

The data processing system has the capability to make immediate additional payments to correct an underpayment or to accept refunds to correct an overpayment. See Section J, 4.

T. Fiscal Controls, Fund Accounting and Annual Audit

The Fiscal Administration Division of the Department of Human Services has the responsibility and capability of establishing effective fiscal control and fund accounting procedures to assure the proper dispersal of and accounting for Federal funds paid to the State for energy assistance programs. The North Dakota State Auditor's Office audits LIHEAP funds in accordance with the Comptroller General Standards for audit of governmental organizations and programs. Audit reports are available to the public and forwarded to the Secretary of Health and Human Services and to the North Dakota Legislative Council within 30 days of receipt. Audit documents, work papers, and other information prepared during the audit is retained for 3 years. Information reviewed in an audit, such as applications and other documents and narratives that are located in county individual case files, billing and payment records, and program administration documents shall be retained for the shortest period of time permitted by federal or State records statutes and regulations.

U. Reporting and Investigations

The LIHEAP electronic data processing system collects pertinent information regarding client characteristics and all expenditures. Within the capability of the system, reports will be prepared and submitted as may be requested or required by the Secretary of Health and Human Services.

State and county social service board records, staff and/or other available pertinent program information will be reasonably accessible as necessary to permit and cooperate with investigations conducted by the United States Comptroller General and/or Secretary of Health and Human Services, or their representatives, and to evaluate the State's compliance with provisions of Title XXVI.

V. Administrative Fair Hearing

A state hearing officer conducts administrative hearings for all programs administered by the Department of Human Services under the rules and regulations described in the North Dakota Administrative Code Chapter 75-01-03.

Administrative fair hearings for heating assistance and Emergency Assistance Programs will be conducted in the same manner, except Emergency Assistance has an optional administrative review. (See Section N, 5). Administrative fair hearings for LIHEAP funded weatherization services are described in the interagency administrative agreement. (See Section O, 2).

The administrative procedures and forms used by LIHEAP will assure that applicants are advised of their right to an administrative fair hearing whenever their application is denied or is not acted upon within 45 days of the receipt of the applications.

W. Non-Discrimination

No person shall, on the grounds of race, color, national origin, sex, age or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program funded in whole or in part with funds available for the Low Income Home Energy Assistance Program. It is the policy of the North Dakota Department of Human Services to implement the intent of the law rather than limiting action to strict legal requirements.

X. Cooling Assistance Program

The North Dakota State LIHEAP does not routinely include a cooling program. However, the State reserves the option to implement a temporary cooling program in the event of unusual cooling needs due to weather aberrations, contingent upon available funding. The Executive Director of the North Dakota Department of Human Services, upon consultation and approval of the Chief Executive Officer of North Dakota, will provide written notification to the Department of Health and Human Services, Division of Energy Assistance, at the time the State decides to exercise its option to implement a cooling program. The Executive Director may choose to implement any or all of the following cooling components, depending upon the nature of the cooling emergency and amount of funding available:

1. Direct Payments to Households for Cooling Costs

a. Application and Eligible Households

Under this component, the State will use existing computer data to identify eligible recipients of the Heating Assistance Program who are most vulnerable to heat related illnesses and will need to incur higher electrical costs for cooling purposes. The households assisted may include one or more of the following vulnerable groups:

- Elderly (persons 60 and over),
- Individuals with a disability,
- Very young children (age 0-2),
- Young children (age 3-5).

The specific vulnerable group served will depend upon the amount of funds available to meet the need, and will be identified in the written correspondence that notifies HHS/DEA of the State's intent to implement this option.

Since the targeted households will already have established LIHEAP eligibility under the Heating Assistance component, no additional application will be required.

b. Payment Method

The payment(s) will be made directly to the identified household and will be issued from the State's central computer payment system.

Special coding will identify the payment to allow for tracking of cooling payments, and a list of all such payments made will be generated.

c. Benefit Amount

The amount and frequency of the payment(s) will be determined at the time a decision is made to implement this cooling component.

Information will be solicited from the electric providers to establish the level of need and an appropriate benefit amount for the state's cooling

emergency.

2. Purchase of Cooling Devices

This component will allow for the purchase and installation of approved cooling devices for households who can document a medical need for cooling.

a. Application and Eligible Households

A special application will be required for this assistance. The application will establish that the income and assets of the household are within the guidelines allowed under the Heating Assistance component, as described in Section H, 1 and H, 2.

Since this assistance is for cooling devices, the applicant does not need to have responsibility to pay a heating or cooling bill. Therefore, households who are not eligible under the Heating Assistance component, as described in Section H, 3, may be eligible for purchase of cooling devices under this cooling component.

The documentation of medical need will require a signed statement from a physician, physician's assistant, nurse practitioner, or public health nurse that identifies the member of the household who needs a

cooled living space, the nature of the medical condition and why cooling of the living space is needed. An assertion that cooling is required because of advanced age or disability is not sufficient to establish medical need.

b. Administrative Agreement

The Department of Human Services will enter an agreement with the North Dakota Division of Community Services to administer this component, including responsibility for sub-granting for local administration, coordinating and monitoring sub-grantees, and reporting to the Department of Human Services. The agreement will describe the conditions for the use of LIHEAP funds under this component, and may include a provision allowing households living on the state's Indian reservations to receive cooling devices. The agreement states that the assurances required by Section 2605 (b) of the Act will be carried out in accordance with the North Dakota State LIHEAP Plan. Fair hearing procedures will be in the agreement. The provisions of the agreement shall supersede and prevail over any provision of this plan that may conflict.

A copy of the agreement will be sent to HHS/DEA at the time the State sends written notification of its intention to implement a cooling program that includes a cooling device component. The agreement will become part of the North Dakota State Plan of Operation for the

current federal fiscal year.

The local administration of this cooling device component, as sub-granted with the Division of Community Services, will be the responsibility of the seven Community Action Agencies.

c. Funding and Time Period

The amount of funds obligated for the cooling device component will be established by the Department of Human Services at the time a decision is made to implement the component and will depend upon the availability of funds. The amount of funds will be included in the agreement and will be available for the remainder of the fiscal year, or until the obligated funds have been expended.

3. Energy Assistance for Shelter Residents (see Section Y).

Y. Energy Assistance for Shelter Residents

The North Dakota State LIHEAP does not routinely include a program to assist domestic violence and homeless shelters with heating or cooling costs. However, the state LIHEAP recognizes that persons served by homeless shelters would otherwise meet the income and asset requirements of the North Dakota LIHEAP. Therefore, the State reserves the option to provide limited assistance in the event of unusual heating or cooling needs due to weather aberrations, contingent upon available funding. The Executive Director of the North Dakota Department of Human Services, upon consultation and approval of the Chief Executive Officer of North Dakota, will provide written notification to the Department of Health and Human Services, Division of Energy Assistance, at the time the State decides to exercise its option to assist shelters with energy costs.

1. Application and Eligible Shelters

Application for shelter energy assistance requires the submission of an application that includes general information about the shelter facility and operation; documentation of actual heating and cooling costs; and a register containing information about shelter residents served.

Shelter eligibility is based upon three factors:

- a. The shelter's primary function is to provide temporary shelter to victims of domestic violence and other homeless persons, and the shelter is recognized as a qualifying shelter by the Emergency Shelter Grant Program administered by the North Dakota Division of Community Services. Shelters serving any of the four Indian reservations, described in Section C, 2 as administering a tribal LIHEAP program, are not eligible.
- b. The shelter can document heating and cooling costs not covered by other assistance and which do not include costs of any administrative office space shared with other agencies occupying the building.
- c. A register of shelter residents can be provided which contains sufficient information to ensure the resident is not also receiving assistance under any other LIHEAP component at the same time the person is a resident of the shelter. Name confidentiality will be respected due to the unique circumstances of victims of domestic violence. However, at a minimum, a social security number must be provided. Income and minimal demographic information should be provided when available. The shelter must document by its register of

residents that residents served during the specified time period had gross incomes under 60% of the state median income.

2. Shelter Benefit Amount

The benefit amount available to a specific shelter will be a percentage of the documented heating and cooling costs. The percentage and time period for the energy costs will be specified in an agreement with the administering agency.

3. Administrative Agreement

The Department of Human Services will enter into an agreement with the North Dakota Division of Community Services to administer the shelter energy assistance component, including responsibility for receiving and processing the applications of shelters, obligating benefit amounts to approved shelters, distribution of obligated funds, monitoring approved shelters, and reporting to the Department of Human Services. The agreement will describe the conditions for the use of LIHEAP funds under this component. The agreement states that the assurances required by Section 2605 (b) of the Act will be carried out in accordance with the North Dakota State LIHEAP Plan. Fair hearing procedures will be in the agreement. The provisions of the agreement shall supersede and prevail over any provision of

this plan that may conflict.

4. Funding and Time Period

The amount of funds obligated for the shelter energy assistance component will be established by the Department of Human Services at the time a decision is made to implement the component and will depend upon the availability of funds. The amount of funds will be included in the agreement and will be available for the remainder of the fiscal year, or until the obligated funds have been expended.

**SUMMARY AND PUBLIC NOTICE
NORTH DAKOTA STATE PLAN OF OPERATION
LOW INCOME HOME ENERGY ASSISTANCE PROGRAM
FFY2014**

The North Dakota Department of Human Services is requesting public comments on the FFY2014 Low Income Home Energy Assistance Plan, including the 2014 Program Integrity Supplement. A current draft of the Plan will be available for public inspection, or this summary will be provided upon request. An electronic version is available by contacting raddington@nd.gov. Comments must be submitted in writing by Friday, August 16, 2013 to:

Carol Cartledge, Director of Economic Assistance Policy Division
North Dakota Department of Human Services
600 E. Boulevard Ave., Dept. 325
Bismarck, North Dakota 58505-0250

The adjusted gross income of all members of an eligible household cannot exceed:

<u>Household Size</u>	<u>Income</u>	<u>Household Size</u>	<u>Income</u>
1	\$25,773	7	\$66,910
2	\$33,703	8	\$68,397
3	\$41,633	9	\$69,884
4	\$49,563	10	\$71,371
5	\$57,493	11	\$72,858
6	\$65,423	12	\$74,345

A public hearing on this proposed plan will be held in Conference Room B on the third floor of the Judicial Wing of the State Capitol Building, 600 E. Boulevard Ave., Bismarck, North Dakota on Thursday, August 15, 2013 at 1:00 P.M.



FY2014
STATE PLAN
PUBLIC
HEARING

Affidavit of Publication

Colleen Park, being duly sworn, states as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.
2. The newspapers listed on the exhibits published the advertisement of: **ND Human Services Department – Low Income Home Energy Assistance Program; 2 time(s)** as required by law or ordinance.
3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

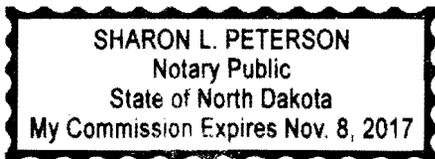
Signed: Colleen Park

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 9 day of August, 20 13.

Sharon L. Peterson





August 13, 2013

Carol Cartledge, Director
Economic Assistance Policy Division
North Dakota Department of Human Services
600 E Blvd. Avenue Dept. 325
Bismarck, ND 58505-0256

Dear Ms. Cartledge,

The North Dakota Community Action Partnership would like to go on record strongly supporting the waiver to increase LIHEAP expenditures for weatherization activities from 15% up to 25% of the total federal allocations available for federal fiscal year 2013. It is vitally important that as federal funding for weatherization activities become a hit and miss proposition a stabilizing source of funding is available to maintain a strong and effective weatherization program throughout the state. There is a growing concern that adherence by LIHEAP to DOE regulations could become problematic so the state plan may need to be modified to allow DCS greater flexibility in LIHEAP program operation than strict reliance on DOE formulated regulation. Historically the CAAs have always believed that it is important that weatherization activities be an integral part of the LIHEAP effort within the state and this waiver request takes a step in the right direction.

NDCAP is greatly appreciative for the leadership shown on this effort to further bind weatherization activities and LIHEAP into a cohesive program that efficiently aids lower income households with their home heating needs.

Respectfully submitted,

Willy Soderholm
NDCAP President

*Bottineau, Burke, McHenry, Mountrail, Pierce,
Renville, Ward*



2020 - 8th Avenue SE • Minot, ND 58701-5035
(701) 839-7221 • (800) 726-8645 • Fax (701) 839-1747 • TDD (701)
852-3028



CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Maggie D Anderson
Signature

Executive Director
Title

ND Department of Human Services
Organization

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-- Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under

48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-- Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is

providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--
Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --

- (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES, 600 EAST BOULEVARD AVE.
DEPT. 325, BURLEIGH COUNTY, BISMARCK, ND 58505-0250

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]