

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



FFY2026 State Plan – Attachments Document

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THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

NORTH DAKOTA STATE PLAN OF OPERATION

Federal Fiscal Year 2026

10/01/2025 through 9/30/2026

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 50-06-05.1 designates the North Dakota Department of Health and Human Services and the Human Service Zones to administer a low-income energy assistance program. The Department of Health and Human Services and the Human Service Zones 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 Health and Human Services biennium appropriation authorizes the receipt and expenditures of program funds.

The employer's identification number of the Department of Health and 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 energy assistance and crisis situations.

The North Dakota Department of Health and 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 energy 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. Jessica A. Thomasson, Executive Director, North Dakota Department of Health and Human Services is:

Jessica A. Thomasson, Executive Director
North Dakota Department of Health and Human Services
State Capitol - Judicial Wing
600 E. Boulevard Ave. Dept. 325
Bismarck, ND 58505-0250
Telephone (701) 328-1512

The North Dakota Department of Health and 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 Division.

Fiscal information and program information should be sent to:

Michele A. Gee, Director of Economic Assistance Division Low
Income Home Energy Assistance Program
North Dakota Department of Health and Human Services
State Capitol - Judicial Wing
600 E. Boulevard Ave. Dept. 325
Bismarck, ND 58505-0250
Telephone (701) 328-1633

C. Scope of the Program

1. Effective Dates

This Plan will be in effect from October 1, 2025, through September 30, 2026, 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 throughout the year, 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.

The Secretary of Health and Human Services (HHS) shall determine each tribe's share of the State's total LIHEAP allocation based on the proportion of all LIHEAP-eligible low-income households in the State that are members of each tribe and reside within the boundaries of each reservation. Household numbers are provided by the US Census. If a specific tribe's household data is not listed in the Census, HHS will ask the tribe to provide documentation of eligible tribal households.

3. Use of Funds

- a. Low Income Home Energy Assistance funds may be expended for energy assistance and service, Emergency Assistance and service, electric utility assistance, a cooling program, Low Income Weatherization Services, Administration, and/or reserved for a subsequent program year.
- b. Electrical costs will be treated as an energy source and client/LIHEAP shares will be applied to the whole electrical bill. 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

energy sources will be used for non-residential purposes. In those situations, a non-resident cap will be applied based on the energy source and the estimated cost of heat table. The client/LIHEAP share percentages will be applied until the Non-residential cap is reached; at which time the client will be solely responsible for paying any other energy costs for the remainder of the authorized period.

- 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 provided the total carryover of prior fiscal year funds does not exceed the 10% maximum allowed. 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 energy assistance component only, Section N is applicable to the Emergency Assistance component only, and Section O is applicable to the weatherization component only. Section X is applicable to the cooling component only. Sections K, L, R, S, and V are applicable to both energy 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 are accepted year-round and considered for inclusion in the Plan.
- b. Department of Health and Human Services staff are formally requested to evaluate the program and suggest improvements annually.
- c. A Plan draft is sent to a state office working group for review prior to commencement of the public comment period.

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. The Plan draft and/or a Plan Summary was available for public inspection on the state's LIHEAP website. It was also available in printed format, upon request.
- b. As required by Section 2605(a)(2) of Public Law 97-35, the State Program Director conducted a public hearing on the date 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.
- c. 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 Human Service Zones 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 (aka Statewide Estimated Cost of Heating Table)

Cost/Consumption reference table in the eligibility system that lists estimated costs of heating various types of housing/living units based on their size (number of bedrooms) and primary heat source.

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 energy 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 energy consumption, cost of energy, temperature/heating degree day data, the heating values of various fuels, and a furnace efficiency factor for various fuels. Billing data therefore accounts for these factors in a single number/value.

Data to establish a cost/consumption table for steam heat, kerosene, wood, and coal was not available and therefore the actual expenses incurred by the eligible household will be negotiated, or the rate for MDU natural gas will be used.

Housing or living units that are not obviously within any of the definitions listed (see definition for 'Housing Unit (Living Unit)' will be assigned to the most appropriate category by the State Program Administrator or designee based on the number of walls 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.
- b. The household's inability or potential inability to secure home energy for financial or other reasons.

- c. Age and/or health factors that require the use of extra home energy.
 - d. The maintenance and safety of the home energy system.
 - e. A combination of the above factors.
4. Energy Burden
- This term means the expenditures of the household for home energy divided by the income of the household.
5. Energy Crisis
- Weather-related and supply shortage emergencies and other household energy-related emergencies.
- Examples include (but are not limited to):
- Heat-related shut off or disconnection notice
 - Near-empty fuel tank and refusal to deliver
 - Non-heat electric utility shut off or disconnection notice
6. 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 degrees Fahrenheit.
7. Home Energy
- Home energy references all energy sources used within a household for heating, cooling and electrical utility power.
8. Household
- This term means any individual or group of individuals, regardless of relationship, who are living together (in a housing unit) as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
9. Housing Unit (Living Unit)
- This term refers to one or more rooms occupied as a separate living quarter in a residential dwelling that is designed to be used as a permanent residence.

There are three types of housing/living units:

a) Single detached home

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

b) Duplex or Condominium

This term means a single building that contains two (2) complete living units.

NOTE: A condominium with three (3) or more complete living units is included in All other living unit types ('c') below.

c) All other living units (apartment building - condominiums - row houses - townhouses - high rise)

This term means all other building types that are not described in 'a' or 'b' above and have three (3) or more complete living units.

This category includes condominiums with three (3) or more complete living units.

Note: Housing or living units that are not obviously within any of the above types will be assigned to the most appropriate category by the State Program Administrator or designee based on the number of walls and other surfaces exposed to the outside weather and temperature.

The following are NOT considered housing units (living units):

- 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 or rehabilitation centers, teaching/training centers, transitional living centers, hospitals, nursing homes, retirement or rest homes, homeless shelters, hospice care facilities, communes, or other forms of congregate living arrangements.
- c. Temporary transient living units in hotels, motels, or other commercial dwellings.
- d. Non-traditional dwellings or structures not affixed to a permanent physical address, such as campers, recreational vehicles (RVs), railroad cars, vans, cars, buses, tents, garages/shops, or fishing houses.

10. In-kind Income

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

11. 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)

12. 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.

13. Life-threatening Energy Crisis

Energy-related crisis that poses a serious threat to the health or safety of one or more members of the household.

Examples include (but are not limited to):

No heat or heat distribution and weather conditions or inside air temperature are not at a safe level and the household does not have an alternative or temporary heat source.

Gas leaks

14. Outreach Function

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, flyers and brochures, to ensure all households are aware of the program and the application process. Disabled

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

15. 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.
16. 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 Human Service Zones and alternate outreach organizations shall distribute energy assistance application forms to all individuals upon request, and provide such application forms to energy 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

Any person has the right to apply for the Low Income Home Energy Assistance Program (LIHEAP), even those who are clearly ineligible. The Human Service Zone must provide information about the eligibility requirements of the program; explain applicants' rights, benefits, and obligations under the program; assist individuals as necessary in completing their applications; and accept and process applications without delay.

Applications will be accepted for this program any time during the calendar year. All applications must be completed, signed, and received by the Human Service Zone (HSZ).

The State reserves the right to deny new applications at any time if federal program funds are exhausted.

The head of the household is the household member responsible for payment of heating costs, and, in most cases, the head of household will also be established as the Primary Individual (PI) in the eligibility determination system. The PI is usually the person who will be the applicant for heating assistance and who will sign the application. However, any other household member could provide the application information and documentation and could sign the form to attest to its accuracy. The application form contains the necessary client characteristic data, energy 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. Completed applications received at alternate intake sites are forwarded to the Human Service Zone for final processing and entry into the SPACES system.

A completed application includes practical documentation and verification of all information needed to establish eligibility and computing benefits. The Human

Service Zone staff will assist applicants to complete the application form, including the resolution of a hearing or language barrier problem, 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 local Human Service Zone office may be denied and the household invited to submit a new, signed application form with the required documentation.

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 energy assistance applications will be acted upon promptly, usually within a maximum of 45 days after receipt in the Human Service Zone (See Section N, 1, e for Emergency Assistance response time.).

The applicant and the energy supplier authorized by the applicant must be notified in writing of the LIHEAP energy assistance benefits available to the household and to whom payments will be made.

A "Notice of Action" must be sent:

1. When action is first taken on an application.
2. Whenever an action is taken which will change the amount or type of benefits available.
3. Whenever the period changes for covered energy costs.
4. Whenever a miscellaneous payment is authorized.
5. Whenever a premium payment is authorized.
6. When action is taken on an application for emergency assistance.

4. Household Characteristics

The Human Service Zone staff will enter selected specified household characteristics directly into a statewide eligibility determination system, including a vendor identification number.

5. Payment Process

Households eligible for energy assistance (See Section J, 2, g) who pay energy costs as an undesignated portion of their rent will receive one or more monthly payments from the State. (See Section J, 1, d) For all other energy assistance eligible households who pay energy costs directly to a participating supplier, an

electronically produced billing form ("Request for Payment") will be sent to the designated energy supplier. This form lists all current LIHEAP eligible households in the eligibility determination system that has identified the supplier as an authorized energy supplier. The energy supplier will enter the eligible household's total cost, type and amount of energy, 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 billing 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. Miscellaneous Payments

The Human Service Zone may initiate miscellaneous payments to the eligible household or designated supplier by entering the required information directly into the eligibility determination system. Miscellaneous payments may be required in extraordinary situations such as:

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

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

Premium energy assistance payments (See Section J, 1, i) and/or emergency assistance payments (See Section N) to eligible households or designated suppliers are initiated by Human Service Zones by entering the required data directly into the eligibility determination system.

8. Benefit Revisions and Case Closing

All factors in a eligible household's case file may be changed, or the case may be closed, by entering corrections or additional factors directly to the eligibility determination system. The energy assistance file will remain open until the end of the authorization period and if the review is not completed by the eligible household, the energy assistance file will be closed. 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 Human Service Zone to resolve any questions or to apply for emergency assistance if needed. To provide an accounting of benefits paid, a letter of payments is electronically prepared and mailed 30 days after the case is closed, after the end of authorization period.

G. Outreach

1. Purpose

The Human Service Zones are responsible for outreach activities for the energy 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 and 14.) The purpose of the outreach activities is to ensure that all potentially eligible households, including those that may have a language barrier, are informed of the energy assistance and Emergency Assistance components of this program and have the opportunity to submit an application. The Human Service Zone 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 energy suppliers, Human Service Zones, 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 energy suppliers upon request for distribution to their customers or as a guide to design a special brochure for their customers. Individuals who apply for other economic assistance programs using the combined application (SFN 405) also receive the brochure information in either hardcopy or through a link to the electronic version of the guidebook, if applying online.

3. Special Outreach

The Human Service Zone 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 energy 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 energy 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.

5. Outreach – Community Options Inc.

The Department of Health and Human Services contracts with Community Options Inc. to provide outreach services with a focus on elderly and disabled people.

Community Options staff participate in local events at Senior Centers, businesses and organizations to give marketing presentations for LIHEAP and provide information and education about the program by placing fliers in local communities statewide. They also attend various conferences around the state

and conduct outreach activities via booth presentations.

In addition, Community Options staff provide applications to interested clients, assist clients with completing applications and obtaining required verifications, assist counties in obtaining necessary verifications for eligibility, and conduct home visits to home-bound individuals to assist with the application process.

All activities are coordinated with Human Service Zone and the Community Action agencies to ensure that there is no duplication of services.

6. Outreach - Marketing

The state will use LIHEAP funds to implement a marketing campaign via a third-party vendor. The marketing efforts will focus on promoting the LIHEAP benefits, emergency furnace repair and replacement, and cooling efforts.

H. Eligibility Criteria for Energy Assistance

1. Income

- a. The maximum income eligibility limit for energy 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:
 - (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 multiplied by 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) Recurring lump sum payments or periodic income that is not the conversion of an asset, such as interest income, 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 practical extent. 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) 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 energy costs, the State Program Administrator 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:
- (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 or irregular income that is administratively difficult to consider, document, or calculate, 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) All TANF Benefits
 - (6) Income tax refunds and earned income tax credits.
 - (7) Retroactive payments such as from Social Security, etc.
 - (8) Income from the developmentally disabled family home subsidy.
 - (9) Payments received for providing child or adult foster care.

- (10) Reimbursements for meals provided by day care providers.
- (11) 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.
- (12) Educational loans, grants, scholarships, and stipends that do not require work participation and work-study wages to a *bona fide* higher education student.
- (13) Loss settlements that are non-recurring.
- (14) 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.
- (15) 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 under the Older Americans Act of 1965, Public Law 100-175.
 - (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) Food Stamp Benefits, Public Law 95-113, and Food Commodities, Public Law 74-320.
 - (f) Payments received under the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646).
 - (g) Payments made to VISTA volunteers or to other volunteers under the Domestic Volunteer Service Act of 1973 (42

USC 5044 (g) (1)).

- (h) Utility allowances by governmental housing assistance program under Section 927 of Public Law 102-55, the "Housing and Community Development Act of 1992".
- (i) Public Law 97-403 exempts Indian funds distributed on a per capita basis. Per capita payments from gambling profits are counted as unearned income.
- (j) The first \$2000 per year in income derived from Indian trust lands (Section 13736 of Public Law 103-66 amends 25 USC Section 1408).
- (k) Payments to Aleuts relocated to the United States under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383, 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).
- (l) Major Disaster Relief and Emergency Assistance under Public Law 100-707.
- (m) Allowances, earnings, or payments received under the Workforce Investment Opportunity Act (WIOA) or Youthbuild.
- (n) Educational assistance is 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.
- (o) Services provided to families under the Family Investment Center Program through the Department of Housing and Urban Development (HUD).
- (p) Compensation made to crime victims under the Crime Act of 1984. (P.L. 103-322)
- (q) All income, allowances and bonuses received as a result of participation in the Job Corps Program
- (r) Subsidized Guardianship payments
- (s) Payments to children of Viet Nam veterans who are born with spina bifida.

(t) 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 expenses in the Low Income Home Energy Assistance Program (LIHEAP) Manual Chapter 415-25-05-05-05. 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 and adult dependent care costs required for employment, training, or educational 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) \$500 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) \$500 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) The amount of wages garnished or deducted by law or by court order.
- (8) 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 re-computation.

The effective date of the change shall ensure fair and proper notification to households and their suppliers. (See Section J, 1, g for benefit re-computations due to changes.)

2. 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 home energy and are not eligible for additional energy assistance. The rental costs for these households are based on a fixed percentage of the household's income and/or other factors and do not increase or decrease when energy costs increase or decrease.
- b. Households that receive free home energy as a required condition of employment, as a gift, or through enforced legal action (divorce/separation) are also considered fully protected from the rising costs of energy.
- c. Households that occupy housing units that are excluded in the definition of a living unit in a residential dwelling in Section E, 9 are ineligible households.
- d. Households are composed entirely of non-qualified aliens.

3. Verifications

- a. All household income must be reported on the application. All sources and types of income and deductible expenses must be verified except income of less than \$500 per year and deductible expenses that are \$1,000 or less per year. The \$1,000 applies to each category of deductions (Ex: Medical, Health and Hospitalization Insurance, Child Support, etc.). The verification documentation is retained in the case file, or a notation is made in the eligibility determination system that the

acceptable documentation was examined by the Human Service Zone staff. 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 for any other factor of eligibility and benefit determination whenever the statement is questionable in the judgment of the Human Service Zone staff. 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 energy, vendor, various dates, household composition, and vulnerability. If the required verification is refused, the application may be denied.
- c. Only during a household energy emergency that either occurs outside of the Human Service Zone office hours or verification for eligibility purposes cannot immediately be obtained; or during a state or federal-declared disaster, may the minimum amount of energy practical be authorized without a signed energy 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 energy costs and used to determine energy 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 eligibility determination system. Billing data reported directly from energy suppliers, either electronically or on paper billing statements, is used to determine the cost of heating a dwelling/residence for the entire benefit period. Billing data (i.e., total amount billed to client) is determined by several factors, including energy consumption, cost of energy, temperature/heating degree day data, the heating values of various energy sources, and furnace efficiency factor for various energy sources. Billing data therefore accounts for these factors in a single number/value.
- b. Using actual billing data from the five most recent federal fiscal years (i.e., benefit periods), a distribution of total amount billed is generated, and MEDIAN values are identified. Using historical billing data, the median house values are adjusted to estimate the total amount billed (i.e., energy costs) for various building types and number of bedrooms. These energy costs are then multiplied by a set percentage, based on historical billing data (e.g., 187% for FY2024), to estimate the maximum cost of energy for each identified building type. Using these adjusted 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 energy sources.
- c. Accurate consumption/cost data are not available for wood, coal, and other miscellaneous types of energy sources, due to the very small number of LIHEAP recipients with these primary energy 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. Energy Assistance Benefit Determination and Payments

1. Benefits

- a. Energy assistance benefits are an individually determined percentage of the eligible household's actual energy cost incurred during each eligible month of the benefit period. Energy and some incidental charges may be included in the household's cost of energy.
- b. The amount each household can afford to pay for heat costs is based on family size and income. This is determined by applying the annualized income to the SMI table to identify which SMI group the household falls under.
- c. The household's percentage share is the amount described in 'b' then applied to the cost share table to identify what is the household share and the LIHEAP share. The table was created with the idea that no household should have to pay more than 6% of their income toward energy costs and therefore, the greatest amount of assistance is provided to households with the lowest income and the highest energy costs.
- d. The maximum LIHEAP percentage is 100% and the minimum LIHEAP percentage share is 45%. The total amount paid for households whose energy bills include non-residential energy costs will not exceed the amount of that household's non-residential cap that established from the non-residential cap table, identified by energy type. All households that meet the energy assistance eligibility criteria in any month of the eligibility period (after application) may be provided any of the defined services and/or premium assistance, as needed, anytime through the end of their authorized benefit period. See Section N for Emergency Assistance Eligibility Criteria.
- e. For eligible households, energy assistance will be authorized to begin on the first day of the month that an application was received in the Human Service Zone, or retroactive to include 3 months prior to application with a qualifying emergency application. The authorization period will continue for 12 months after application, but benefits may be terminated if sufficient program funds are available. Human Service Zones 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 the end of an established authorization period. The household is responsible for 100% of the energy costs incurred during any unauthorized or ineligible month.
- f. Renters are defined as those eligible households that pay their energy costs as an undesignated portion of their rent. To assure renters and

owners are treated equitably, benefits for renter households are determined in the same manner listed in "a." above, and then applying the SMI to the Renter Benefit Table by SMI and selecting the benefit by energy type. There will also be a cap placed on the overall benefits received for the eligibility period based on energy type. This cap can be found on the Renter LIHEAP Yearly Cap table.

- 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, or rent subsidy status. A household's benefits shall be recalculated, using the reported information and any changes to income that have occurred since the initial application. The effective date of the change shall ensure 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 Administrator will assign a benefit level based on benefit levels received by similarly situated households.
- i. Households that were eligible to receive regular energy assistance (See Section H) may request and receive premium energy 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 eligibility determination system by the Human Service Zone staff. Supporting documents are retained in the case files. A "Notice of Action" is automatically sent to the household's designated supplier to certify that the premium assistance is authorized.
 - (1) Necessary furnace cleaning, maintenance, and tune-up to prevent a energy crisis and promote safety and energy conservation. This additional benefit is limited to \$500 per household per benefit period, except an additional \$150 may be granted if chimney cleaning is included. The household must have been eligible for energy assistance in any month of the current federal fiscal year.
 - (2) The State Program Administrator 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 energy. Authorization is based on energy 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 benefit period.
- b. The state will make LIHEAP co-payments to energy suppliers on behalf of an eligible household whenever the supplier agreement has been signed by the supplier and the household that uses the energy has the ultimate responsibility to pay the energy costs. Co-payments will continue until the authorized period has elapsed, the case has been closed, or the benefit period 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 Program Administrator may authorize a third-party payee or two-party checks.
- c. Energy costs are limited to the primary residence occupied by the eligible household. The energy costs may include required incidental costs such as connection or disconnection, tank rentals, delivery, etc. For other types of energy, it is not possible or practical to separate heat cost from the cost of energy used for other purposes and will not be required.
- d. Only energy purchased during the household's period of authorization will be paid by the State to the supplier or household. Eligible households that paid the total energy costs or purchased energy from a supplier who has not elected to participate in the Low Income Home Energy Assistance Program may receive direct co-payments. Such households submit bills received from or paid to a energy supplier to the Human Service Zone office.
- e. To ease their co-payment obligation, households are encouraged to enter "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.
- f. Eligible households identified as renters, with their costs paid as an undesignated portion of rent, will receive one monthly payment.

3. Duplicate Payments

No duplicate energy assistance or emergency assistance payments to an eligible household, or to a energy supplier on behalf of the eligible household will be made for the same energy cost 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 energy assistance or emergency assistance payments may be underpayments or overpayments and may occur for a variety of reasons such as fraud, misrepresentation, failure to report changes, supplier errors, administrative errors, etc. The eligibility determination 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 energy supplier will refund any overpayments due to the supplier's error immediately after discovery and verification.
- e. The Human Service Zone will notify eligible households in writing through the electronic "Notice of Action" 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 Human Service Zone.
- 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.

K. Supplier Agreements

1. Standard Agreement

The energy supplier will be required to sign a standard agreement statement that is included in the energy assistance billing form. Suppliers who submit an electronic file in lieu of the energy assistance billing form will sign the same agreement but in letter form. The standard agreement will commit the energy 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 the State any over-payments.

2. 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 actions.

L. Notice of Eligibility

1. Notice of Approval

Households eligible for energy assistance and/or emergency assistance will receive an electronically produced "Notice of Eligibility" 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 Eligibility" will also notify applicant households whenever their application for energy 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" will also be sent to the eligible household (energy assistance only) whenever a change occurs in their eligibility or benefits, the authorization period is complete, or when their case is closed by the Human Service Zone. The reasons for the change or closing and the applicant's right to an administrative fair hearing are included. If the case is 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 eligibility determination system by Human Service Zone staff.

5. Overpayment Notice and/or Agreement

A notice is sent to the household through the electronic "Notice of Action" whenever an overpayment to the household is suspected. The notice includes an explanation of the disputed information that may have caused 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 applicants 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 sent 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 energy assistance recipients and to all individuals that inquire or apply for energy 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. Human Service Zones and Economic Assistance Programs.

Each of the Human Service Zones is also responsible to administer TANF, SNAP, Medicaid, Child Care Assistance Program, and Title XX and other service programs. Therefore, the Human Service Zone can assure that these programs and energy programs are fully coordinated.

3. Weatherization Services and Energy Conservation

All energy 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). Households are encouraged to participate however, participation is voluntary. Households are required to contact their local community action agency if they are interested in receiving these services. 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 Human Service Zone 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 energy fund corporation. The Board of Directors includes a representative from each of the 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 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 LIHEAP enter into an 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 Health and Human Services' biennium appropriation and will increase the amount of energy 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 may 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 energy 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 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 energy 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 Human Service Zone, throughout this federal fiscal year, October 1, 2025 through September 30, 2026.
- d. Emergency home energy assistance is defined as assistance to low income households necessitated by weather related or supply shortage and/or other household energy-related emergencies; the household's inability or potential inability to secure home energy for financial or other reasons; age and/or health factors that require the use of extra home energy, the maintenance and safety of the home energy system or a combination of the above factors. 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 energy assistance application is received; or a utility or other energy 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 Human Service Zone has established emergency procedures to provide timely 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 energy 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 energy 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, unsafe, or 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, 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 may be eligible for supplemental energy 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.
- 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 eligible with State Program Administrator approval only. Arrearage is defined as the unpaid costs for home energy described in 2,a and 2,f above that were incurred more than 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 Human Service Zone 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 must first be within the energy assistance limitations described in Section H during the benefit period or at the time emergency assistance is requested. Next, to permit the flexibility necessary to ensure 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 energy needs (see 2a above), assistance available from other community resources should be utilized first, if practical. 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 may include current net income, available secured or unsecured loans, credit, available deferred payment plans, and liquid assets of the household.
 - (a) The cost of the household's basic shelter, food, medical, utility, childcare, 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 services 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. Client statement may be considered an acceptable form of verification if a state or federal disaster has been declared.
- 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, energy assistance. Other households must complete the energy 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 Human Service Zone 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 Program 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 eligibility determination system by Human Service Zone staff.
- d. A 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 Human Service Zone's eligibility and benefit decision. The review will be conducted by a higher-level Human Service Zone official such as the Zone's LIHEAP Supervisor, the Zone Director, or by the Board. The applicant retains all rights to the Administrative Fair Hearing process described in Section 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. Obligated funds will be liquidated within five FFYs after the end of the current FFY.

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 Health and 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 provided the total carryover of prior year funds does not exceed the 10% maximum allowed. 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. Energy Assistance Grants and Services and Administration:

Energy assistance grants and services to or on behalf of individual eligible households, and the necessary administration costs, will have first priority. Based on current cost and case load data, and in view of the provisions of this Plan and the expected energy cost, it is estimated that approximately 25 million dollars will be needed to provide home energy benefits and services for eligible households and for statewide administrative costs for this federal fiscal year, October 1, 2025 through September 30, 2026.

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, the existence of unusual cooling needs due to weather conditions, or disaster emergency.

7. 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 energy purchases by low-income households as early as October 1 of each year. The small energy 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, or to a vendor on behalf of a 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 Human Service Zone 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, 16, 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 by 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 energy assistance and Emergency Assistance continuously. Monitoring reports from Economic Assistance central office and field staff are reviewed. Reports from the Human Service Zone 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. Human Service Zone

Human Service Zones will determine that energy suppliers and recipients follow instructions, agreements and program regulations. Violations shall be resolved by the Human Service Zone or, if necessary, referred to the State Program Administrator. The Human Service Zone shall maintain records of all reviews, violations, negotiations, and corrective actions. The individual household case files maintained by the Human Service Zone 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 Human Service Zones 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 or Human Service Zone staff.

4. Random Sample

In addition to closing notices, the eligibility determination system may periodically select a random sample of energy assistance recipients and send a request for verification that energy costs paid by the State were for energy received by the recipient household. Human Service Zone staff will resolve discrepancies. Other random samples for monitoring purposes may be planned and initiated as necessary.

5. Payment Adjustments and Recovery

The eligibility determination 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 Health and 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 are retained for 3 years. Information reviewed in an audit, such as applications and other documents and narratives that are in individual case files, billing and payment records, and program administration documents shall be retained for the shortest period permitted by federal or State records statutes and regulations.

Case file reviews are completed monthly by Economic Assistance Quality Assurance staff to ensure cases are processed according to LIHEAP policy and procedures.

U. Reporting and Investigations

The eligibility determination 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 Human Service Zone 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 Health and Human Services under the rules and regulations described in the North Dakota Administrative Code Chapter 75-01-03. Administrative fair hearings for energy 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 ensure 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

In accordance with Federal law, the U.S. Department of Health and Human Service (US HHS) policy, and North Dakota state law, HHS is prohibited from discriminating based on race, color, sex, including gender identity and sexual orientation, age, disability, national origin, religion, or status with respect to marriage or public assistance.

X. Cooling Assistance Program

The North Dakota State LIHEAP reserves the option to implement a cooling program contingent upon available funding, or in the event of unusual cooling needs due to weather aberrations or an emergency disaster declaration. The Executive Director of the North Dakota Department of Health and 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 the following cooling components, depending upon the nature of the cooling emergency and amount of funding available:

1. Direct Payments to Households or Vendors for Cooling Costs

a. Application and Eligible Households

Under this component, the State may use existing household data to identify eligible recipients of the energy 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 energy assistance component, no additional application will be required.

b. Payment Method

The payment(s) will be made directly to the identified household or utility vendor and will be issued from the eligibility determination 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.

The household's established LIHEAP share percentage may be used to determine the payment amount(s) or information may be solicited from the electric providers or obtained from available electricity cost reports to establish the level of need and an appropriate benefit amount.

2. Purchase of Cooling Devices

This component will allow for the purchase and installation of approved cooling devices or the repair of existing cooling devices for households with income eligibility for LIHEAP.

a. Application and Eligible Households

Households that are not a current LIHEAP recipient will need to complete a regular energy assistance application. The application will establish that the income of the household is within the guidelines allowed under the energy assistance component, as described in Section H, 1.

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 energy assistance component, as described in Section H, 2, may be eligible for purchase of cooling devices under this cooling component.

b. Administrative Agreement

The Department of Health and 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 Health and 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.

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 Health and Human Services at the time a decision is made to implement the component and will depend upon the availability of funds. Obligated funds will be liquidated within five FFYs after the end of the current FFY.