

INDEPENDENT AGENCIES**MAINE STATE HOUSING AUTHORITY**

Home Energy Assistance Program Rule

Summary: The Rule establishes standards for the Home Energy Assistance Program for the State of Maine as administered by the Maine State Housing Authority. The Home Energy Assistance Program provides Fuel Assistance and Energy Crisis Intervention Program to low-income Eligible Households. The Rule also establishes standards for the HEAP Weatherization and Central Heating Improvement Programs.

1. Definitions.

- A. “Act” means the Maine Housing Authorities Act, 30-A M.R.S.A. § 4701 et seq., as it may be amended from time to time.
- B. “Annual Consumption Report” means the annual report Vendors must submit to MaineHousing to report their HEAP customers’ Home Energy deliveries from May 1st through April 30th.
- C. “Apartment” means a Dwelling Unit within a multi-unit building.
- D. “Applicant” means a person listed as a Household member on a Primary Applicant’s Application.
- E. “Application” means forms and documents completed, signed, and provided by Primary Applicant to determine eligibility for Benefit and ECIP.
- F. “Benefit” means the dollar amount of Fuel Assistance an Eligible Household receives.
- G. “Benefit Return” means a Benefit, partial or whole, returned by a Vendor.
- H. “Boarder” means a Roomer who is provided meals and is not related by birth, marriage or adoption to the household.
- I. “BTU” means British Thermal Unit.
- J. “Camper” means a trailer, semitrailer, truck camper, or motor home primarily designed and originally constructed to provide temporary living quarters for recreational, camping, or travel use regardless of modification(s) or length.
- K. “CHIP” means the Central Heating Improvement Program component of HEAP.
- L. “Contractor” means a provider of materials or services to Eligible Households.
- M. “Close-out” means the reconciliation of receipts and use of all Fuel Assistance and ECIP funds by Vendor. It is Vendor’s responsibility to keep this information by Eligible Household and provide it to MaineHousing upon request.
- N. “Consumption Based” means the method for determining an Eligible Household’s Home Energy consumption using actual energy deliveries as reported by the Vendor.
- O. “CTE” means to clean, tune, and evaluate a Heating System to ensure safe and efficient operation.

- P. “Date of Application” means the date an Application is received by the Subgrantee.
- Q. “Date of Discovery” means the date MaineHousing receives information relating to suspected fraud.
- R. “DHLC” means the design heat load calculation method for estimating Home Energy consumption.
- S. “Direct Energy Cost” means an Energy Cost that is directly paid by the Household.
- T. “Discount Off Retail” means the seven cents (\$0.07) deducted from a Vendor’s Retail Cash Price for all Home Energy deliveries for the fuel type listed on the Vendor Voucher Report paid with Benefits and any Home Energy deliveries in that same Program Year paid with client funds. ECIP deliveries are not subject to Discount Off Retail.
- U. “Dwelling Unit” means an occupied residential housing structure with one or more rooms that is used customarily as a domicile for one or more persons, when permanently connected to the required utilities (including plumbing, electricity and Heating Systems) and contains bathroom and kitchen facilities specific to that unit. A Dwelling Unit has its own private entrance from the outside or off an enclosed hallway leading from the outside that does not pass through or offer an open access to any other unit within the structure. A Dwelling Unit does not include a Camper, boat, railroad car, bus, yurt or other structure designed and constructed to provide temporary living quarters, or any State or federally funded Subsidized Housing.
- V. “ECIP” means the Energy Crisis Intervention Program component of HEAP.
- W. “ECOS” means Energy Conservation Online System, the database used to administer the HEAP Weatherization Program.
- X. “Elderly Person” means a person who is 60 years old or older, or a member of an Indian Tribe who is 55 years old or older.
- Y. “Eligible Household” means a Household that satisfies all eligibility and income requirements of the HEAP Act and requirements of this Rule.
- Z. “Energy Cost” means cost of energy used for heating a Dwelling Unit, Apartment, or Rental Unit.
- AA. “Energy Crisis” shall have the same meaning as set forth in 42 U.S.C.A. §8622(3), as same may be amended from time to time. The term "energy crisis" means weather-related and supply shortage emergencies and other household energy-related emergencies.
- BB. “Errors and Program Abuse” means the act of obtaining assistance to which one is not entitled by means of submitting false statements or withholding information pertinent to the determination of eligibility or benefits. Also applies to Vendors who retain Benefits that should be returned or use Benefits for something other than intended purpose.
- CC. “Fuel Assistance” means the component of HEAP that assists Eligible Households with their Home Energy costs.
- DD. “HEAP” means the Home Energy Assistance Program established pursuant to the HEAP Act and the Act.
- EE. “HEAP Act” means 42 U.S.C.A. §8621 et seq., and the regulations promulgated there under, including 45 C.F.R. § 96.1 through 96.68 and 45 C.F.R. § 96.80 et seq., all as may be amended from time to time.

- FF. “HEAP Handbook” means the handbook in effect for the current Program Year that is used as a resource and guide for the administration of HEAP.
- GG. “HEAP Weatherization” means the Weatherization Assistance Program component of HEAP.
- HH. “Heating Season” means the period of time beginning October 1 and ending April 30.
- II. “Heating Source” means any device used to provide heat to a Dwelling Unit.
- JJ. “Heating System” means a permanently installed system that is designed to heat all or a significant portion of the Dwelling Unit. A portable space heater is not considered to be a Heating System.
- KK. “Home Energy” has the same meaning as set forth in 42 U.S.C.A. §8622(6), as same may be amended from time to time. The term "home energy" means a source of heating or cooling in residential dwellings.
- LL. “Household” shall have the same meaning as set forth in 42 U.S.C.A. §8622(5), as same may be amended from time to time. The term "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.
- MM. “Household Income” means the total income from all sources before taxes and deductions as further defined in this Rule.
- NN. “Incidental Costs” means costs of services billed to a Household by a Vendor related to the use or delivery of Home Energy including, but not limited to: surcharges, penalty charges, reconnection charges, clean and repair service charges, security deposits, delivery charges, and insurance.
- OO. “Indian Tribe” means the Penobscot Indian Nation, the Passamaquoddy Indian Tribe, and the Houlton Band of Maliseet Indians as defined in the Maine Indian Claims Settlement Act, 30 M.R.S.A. §6201 et seq., and the Aroostook Band of Micmacs as defined in The Micmac Settlement Act, 30 M.R.S.A. §7201 et seq.
- PP. “Indirect Determinable Energy Cost” means a cost for Home Energy used by the Household that is not directly paid for by the Household. For example, heat included as part of the rent for a Rental Unit.
- QQ. “Invitation to Bid” or “Request for Proposals” means the process to solicit bids or proposals to satisfy the requirements of this Rule.
- RR. “MaineHousing” means the Maine State Housing Authority.
- SS. “Manufactured/Mobile Home” means a residence that is constructed at a manufacturing facility on a permanent chassis (i.e. the wheel assembly necessary to transport the residence is removable, but the steel undercarriage remains intact as a necessary structural component) and is transportable in one or more sections, which in traveling mode is 12 body feet or more in width and as erected on site is 600 or more square feet.
- TT. “MERAC” means Maine Energy Assistance and Conservation System, the database used in the administration of Fuel Assistance and ECIP.
- UU. “Modular” means a residence that is constructed at a manufacturing facility, but not constructed on a permanent chassis, and is transportable in one or more sections on an independent chassis such as a

- truck or train.
- VV. “Notice of Termination of Subgrantee” means a written statement notifying the Subgrantee of the cause and effective date of its termination.
- WW. “Open Enrollment” means period of time a vendor can request and/or file an application to participate as a contracted Vendor.
- XX. “Overpayment” means any HEAP benefit paid to, or on behalf of, any Applicant or Household that exceeds the amount the Applicant or Household was eligible to receive.
- YY. “Person with Special Needs” means any person who has a physical or mental impairment, has a record of such impairment, or who is regarded as having an impairment that limits one or more major life activities, such as self-care, the performance of manual tasks, seeing, hearing, speaking, breathing, and working on a temporary or permanent basis. A person who receives vocational rehabilitation services, Social Security Disability Benefits or Supplemental Security Income Disability Benefits, or Veterans Benefits under 38 U.S.C., c. 15 or 38 U.S.C., c. 11 is deemed a Person with Special Needs.
- ZZ. “Price Protection Plan” means an agreement between Vendor and a customer to purchase Home Energy at an agreed upon price.
- AAA. “Primary Applicant” means a person who signs the completed Application.
- BBB. “Priority Applicant” means a Household with a Direct Energy Cost as well as a member in the Household who is (i) an Elderly Person, or (ii) susceptible to hypothermia as diagnosed by and documented by a statement from a physician, or (iii) twenty-four months (24) of age or under.
- CCC. “Programs” means Fuel Assistance, ECIP, CHIP, and HEAP Weatherization.
- DDD. “Program Year” means the period of time beginning October 1 and ending September 30.
- EEE. “Rental Unit” means a Dwelling Unit that is rented.
- FFF. “Reporting Vendor” means a Vendor who is contractually obligated to report the Home Energy deliveries the Vendor has made on behalf of an Eligible Household.
- GGG. “Retail Cash Price” means the posted price a Vendor charges for Home Energy per gallon.
- HHH. “Roomer” means a person who qualifies as a separate Household and pursuant to a rental agreement rents no more than two rooms in a Dwelling Unit occupied as separate living quarters and who may, depending upon the rental agreement, be granted privileges to use, but not reside in, other rooms located in the same Dwelling Unit. A Roomer cannot be related by birth, marriage or adoption to the any member of the lessor’s Household.
- III. “Service Area” means the geographic area, as defined by MaineHousing, within which the Subgrantee operates and administers the Programs.
- JJJ. “Social Security Benefits” means social security income benefits pursuant to Title II of the United States Social Security Act of 1935 and supplemental security income benefits pursuant Title XVI of the United States Social Security Act of 1935, as amended, 42 U.S.C. §1381 et seq., and State supplemental income benefits provided pursuant to 22 M.R.S.A. §3201 et seq., all as may be amended from time to time.

- KKK. “State” means the State of Maine.
- LLL. “Subgrantee” means a public or private nonprofit agency, or municipality, selected by MaineHousing to administer the Programs.
- MMM. “Subsidized Housing” means Households whose rent is based on their income or the subsidy pays for any portion of their mortgage. Housing in which a tax credit or federal/state loan is applied to reduce debt burden on the property is not considered Subsidized Housing. A resident of a residential housing facility including without limitation group homes, homeless shelters, and residential care facilities or a Tenant who pays below market rent or no rent due to the landlord receiving a federal or state subsidy for rent is living in Subsidized Housing.
- NNN. “Supplemental Benefits” means the benefits that are funded with supplemental HEAP funds (beyond the original grant award).
- OOO. “TANF” means payments under the Temporary Assistance for Needy Families program as defined in 22 M.R.S.A., Chapter 1053-B, § 3762 et seq as same be amended from time to time.
- PPP. “Tenant” means an Applicant who resides in a Rental Unit or Apartment.
- QQQ. “Vendor” means an energy supplier that has entered into a Vendor Agreement with MaineHousing to provide Home Energy to Eligible Households.
- RRR. “Vendor Agreement” means a signed agreement between MaineHousing and a Vendor that contains terms and conditions by which the Vendor will provide Home Energy to Eligible Households.
- SSS. “Vendor Voucher Report” means the document sent to the Vendor that lists Eligible Households’ Benefits, including each Primary Applicant’s name, address, phone number, Benefit amount, fuel type, account information, and Subgrantee.
- TTT. “Watch List” means the MaineHousing list of Vendors that will not receive payment in advance for Eligible Households’ Benefits. In the event MaineHousing determines, in its sole judgment, based on Supplier’s actions or omissions or other information obtained by MaineHousing directly or from any third party, that such actions, omissions or other information raise issues concerning Supplier’s continued ability to make Home Energy deliveries or otherwise comply with the terms of this Agreement, or that Supplier’s performance is out of compliance with the requirements of the Vendor Agreement, MaineHousing may, in its sole discretion, place Supplier on this list.
- UUU. “Weatherization Assistance Program” means the program enabled and funded by the federal Energy Conservation in Existing Buildings Act of 1976, as same may be amended from time to time. Its purpose is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety.
- VVV. “Weatherization Materials” shall have the same meaning as set forth in Part A of the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. §§6861, 6862(9), as same may be amended from time to time.

2. Application.

- A. An Applicant may have only one certified eligible Application per Program Year.
- B. An Applicant may resubmit a new Application if the Household’s Application has either been denied or withdrawn any time prior to the issuance of a Benefit.

C. The Application will be processed in accordance with the requirements of this Section:

1. The Subgrantee will begin taking Applications as prescribed by MaineHousing each Program Year. A Subgrantee will continue taking Applications until April 30 of the Program Year.
2. The Subgrantee shall accept Applications during normal business hours, which shall consist of a minimum of thirty (30) hours during each week through April 30 of the Program Year.
3. The Subgrantee must use forms provided or approved by MaineHousing to administer the Programs.
4. The Subgrantee will make a reasonable and good-faith effort during the first month it takes Applications to interview, process, and serve only Priority Applicants.
5. The Subgrantee will make a reasonable and good-faith effort to conduct outreach activities and process applications for any Household that has wood as its primary Home Energy source within the first ninety (90) days of taking Applications for the Program Year.
6. At Applicant's request, the Subgrantee must make reasonable accommodations for Persons with Special Needs and other Applicants who are unable to travel to an intake site.
7. The Subgrantee may use the telephone Application process if a Primary Applicant was the Primary Applicant on an Eligible Household Application in the prior Program Year. This process includes completing the Application over the phone; the completed Application and other appropriate documents are then mailed to the Primary Applicant for review, signature, and date.
8. Application must be made with the Subgrantee administering the Programs in the Service Area in which the Household resides. In the event an Application is received by a Subgrantee for a Household residing in a Service Area other than the Subgrantee's designated Service Area, the Subgrantee shall notify the Primary Applicant of the error and forward the Application and supporting documentation to the applicable Subgrantee.
9. Primary Applicant is responsible for providing all information necessary to establish the eligibility of a Household. The Subgrantee must verify the income and identity of the Applicant(s) pursuant to the means prescribed by HEAP Handbook.
10. As part of the application process all Applicant(s) must:
 - a. Sign a release to permit the Maine Department of Health and Human Services, the Maine Department of Labor, and the Social Security Administration to share information with the Subgrantee or MaineHousing regarding information relevant to the Application about the Applicant at each of those agencies, including the Benefits received from each of those agencies;
 - b. Sign a release permitting Subgrantee and MaineHousing to provide information to and obtain information from the agencies listed above or others as needed to determine and confirm eligibility, including the amount of Benefits provided.

D. The Subgrantee will certify or deny an Application within thirty (30) business days from the Date of Application.

1. Written notification of eligibility will be sent to the Primary Applicant within (10) ten calendar days of the decision or when funding is available, whichever is later. The benefit notification shall:
 - a. State the Benefit amount;
 - b. State the date the Benefit was sent to the Vendor;
 - c. State the approved Home Energy type;
 - d. State the manner by which the Primary Applicant can request an appeal.
2. Written notification of denial must be sent to the Primary Applicant within (3) three business days whether funding is available or not. The denial notification shall:
 - a. State the facts surrounding the decision;
 - b. State the reason(s) for the decision;
 - c. State the manner by which the Applicant can request an appeal.

A denial for missing information will be rescinded if the required information is received by the Subgrantee within (15) fifteen business days from the date of the denial notification.

E. The information on an Application may be considered conflicting if it is inconsistent with verbal information provided by an Applicant, with other information on the Application, with prior Program Year Applications, or with information received from a third party.

1. No information received from a third party, other than a government agency, will be used to determine eligibility, unless it is verified by an independent, reliable source.
2. In the case where an Applicant's eligibility is in question because of conflicting information received from a third party, the Subgrantee or MaineHousing shall allow the Primary Applicant an opportunity to amend the current Application only or reaffirm the information on it. Primary Applicant may also withdraw Application at any time (prior to payment of Benefit). A new Application (rather than amended) would be required should an Applicant pursue assistance after withdrawal.
3. If the Primary Applicant elects not to amend the Application, eligibility shall be based on information contained in the Application and documentation provided by the Primary Applicant, documentation provided by a government agency, or information verified by other sources.
4. If verified information results in the Household being ineligible or determines the existence of Errors and Program Abuse or willful misrepresentation, the Application may be subject to denial or termination of Benefits.

3. Eligibility.

- A. Except as may be expressly provided for elsewhere in this Rule, eligibility shall be determined on the basis of information submitted by the Primary Applicant as of the Date of Application. MaineHousing and Subgrantees reserve the right to ask for additional or clarifying information from Primary Applicant, Applicant(s), or third parties to determine eligibility.
- B. MaineHousing will determine eligibility based on the availability of federal funding for the Programs during each Program Year. MaineHousing strives to provide an average Benefit in an amount to purchase at least 100 gallons of fuel.
- C. A Household may be eligible for Supplemental Benefits if available.
- D. MaineHousing uses the federal Poverty Income Guidelines as reported annually by the United States Department of Health and Human Services. MaineHousing reserves the right to manage the Programs within those guidelines when determining benefits.
- E. Dwelling Unit Eligibility

- 1. The Dwelling Unit must have a functioning Heating System. If Application is complete and all applicable documentation has been provided, the Subgrantee may certify the Application for CHIP only.
- 2. Tenants residing in Subsidized Housing with heat included in their rent are only required to apply for HEAP once every five (5) years beginning on the first day of the 2011-2012 program and ending on September 30, 2016. MaineHousing will issue a Benefit in an amount which complies with Maine law to maximize Supplemental Nutrition Assistance Program (SNAP).
- 3. An Applicant who is self-employed and operates a licensed nursing home, boarding home, foster care facility, emergency shelter, or bed and breakfast may apply for the program. The Benefit will be determined based on the rooms occupied by the Applicant; that part of the Dwelling Unit rented for business will not be included.
- 4. Applicants who reside in hotels and motels may be eligible for Benefit if the Household provides documentation that the hotel/motel has been their permanent residence for at least sixty (60) days prior to the Date of Application.
- 5. If a Household's Application has been certified eligible, but all Applicants move to an ineligible Dwelling Unit prior to the Benefit being paid, Household may not be eligible for the entire Benefit depending on Date of Application and Home Energy use during current Program Year.
- 6. A Household is not eligible for Programs if the Household resides in a Camper, regardless of any and all modification(s) or length, boat, railroad car, bus, yurt or other structure designed and constructed to provide temporary living quarters.

F. Household Eligibility

- 1. A Household is eligible for a Benefit if, on the Date of Application:
 - a. it is a full time resident of the State and;
 - b. it intends to reside in the State through April 30 and;

- c. it has a Direct Energy Cost or Indirect Determinable Energy Cost.

If the Date of Application is after April 1, the Household may be eligible for a Benefit if the Household provides documentation that it has been full time resident of the State for at least 60 days.

2. Pursuant to definition of Household, Eligible Household Members may also include:
 - a. an alien who has obtained the status of an alien lawfully admitted for temporary residence under Section 210 of the Immigration and Nationality Act by approval of an application and are categorized as Special Agricultural Workers (SAWS) who perform seasonal agricultural work during a specified period of time; or
 - b. an alien who has obtained the status of an alien lawfully admitted for temporary residence under Section 245A and 210A of the Immigration and Nationality Act by approval of an application and who is aged, blind and/or disabled as defined in Section 1414 (a)(1) of the Social Security Act (Public Law 74-271); or (c) Cuban or Haitian aliens as defined in Public Law 96-422, Section 50I (e). Applicants are considered eligible if they have a Green Card or show permanent Residents (I-551 Alien Registration Card, Passport, I-688 Employment authorization card, I-766 Employment Authorization Document, I-94 with R-1 or R-2 status designation). I-94 documents with no status designated only show permission to enter the U.S. but does not establish residency.
 - c. a member of the Household who is away from the home part of a week is included as a Household member and their income must be included on the Application.
3. If otherwise eligible, Roomers and Boarders are eligible for a Benefit to the extent such Applicants prove that the rental arrangement giving rise to their Roomer or Boarder status was in existence for at least sixty (60) days prior to the Date of Application. At a minimum, such proof shall include verification that a reasonable market rate rent amount was paid by the Roomer or Boarder pursuant to the terms and conditions of the rental agreement for the entire sixty (60) day period. Roomers and Boarders cannot commingle funds or share expenses with lessor's Household.

G. Eligibility is based on Household Income. Household Income is determined and verified in accordance with the following:

1. Information provided on the Application and/or verified as part of eligibility determination process.
2. Household Income received during the three (3) calendar months or twelve (12) calendar months preceding the Date of Application. Primary Applicants must provide pay stubs, or a statement from all current or former employer(s), documenting Household Income received during the three (3) calendar months or twelve (12) calendar months income period prior to the Date of Application.
3. Household Income includes, but is not limited to, the following:
 - a. Wages, salaries, and bonuses before any taxes or deductions;
 - b. Self-employment income. Households with self-employment income must use a current year's tax return. If the Household has not filed a current year's tax return then the tax return for the previous year may be used. If Applicant is recently self-

employed and therefore has not yet submitted a self-employed tax return, the Applicant may complete a self-employed income statement/worksheet accounting for the last 365 days of income. Supporting documentation must be provided to substantiate the information on the statement/worksheet. If Household is using the three (3) month income verification period, self-employed income for the last 365 days, or annual income from tax return, will be prorated to three (3) months. Self-employment income is defined as the total of net income (including net rental income) plus the total net gain from sales of capital goods or equipment plus depreciation;

- c. Social Security benefits. Social Security benefits and Applicant identity will be verified by using the electronic verification process established between MaineHousing and the Social Security Administration. Errors documented by this process will be researched by the Subgrantee and corrected as applicable. In situations where Social Security benefits cannot be verified via the electronic verification process, the Subgrantee will assist the Primary Applicant in understanding the documentation requirements;
- d. Unemployment and worker's compensation and/or strike benefits from union funds;
- e. Alimony, child support, or mortgage/rent payments in lieu of or in addition to support payments;
- f. Military family allotments;
- g. Veteran's Benefits;
- h. Other support from an absent family member or someone not living in the Household including loans if received within the income verification period;
- i. Government employee pensions, private pensions, and regular annuity payments;
- j. Income from dividends, rents, royalties, estates, trusts, and interest. Interest income under \$200.00 must be included as income, but does not need to be supported by documentation;
- k. Foster care payments if the foster child/adult is an Applicant on the Date of Application;
- l. Adoption subsidy;
- m. Net rental income, including funds received from Roomers and Boarders;
- n. Lottery winnings;
- o. Work study;
- p. TANF, Gap, Pass-Through, ASPIRE, Transitional Workers Supplement, or any other regular support from a government or private agency;
- q. Capital gains;

- r. Jury Duty;
 - s. Assets drawn down from financial institutions when used for expenditures and not reinvested;
 - t. Rent received in lieu of wages;
4. Exemptions from Household Income include:
- a. Income from the sale of a primary residence or personal car;
 - b. Tax refunds;
 - c. One-time insurance payments;
 - d. One-time compensation for injury;
 - e. Non-cash income such as General Assistance voucher payments, the bonus value of food and fuel produced and consumed on farms, and the imputed value of rent from owner-occupied farm housing;
 - f. Bank loans, reverse mortgages, and home equity loans;
 - g. Reimbursement for expenses incurred in connection with employment;
 - h. Reimbursement for medical expenses;
 - i. Any funds received for education from grants, loans and scholarships, not to include work study received as earned income;
 - j. Retroactive payments and overpayment adjustments from an entitlement program for a time period outside of the period being considered for HEAP eligibility (i.e. worker's comp, Social Security Benefits, etc.);
 - k. Income earned by an Applicant who is a full time high school student;
 - l. Combat Zone Pay to the military;
 - m. Credit card loans/advances;
 - n. All income used to fulfill a Social Security Administration Program to Achieve Self-Sufficiency (PASS);
 - o. Federal payments or benefits excluded by law as set forth below:
 1. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902, 42 U.S.C. 4636).
 2. Payments of land settlement judgments distributed to or held in trust for members of certain Indian Tribes under Public Laws 92-254, 93-134, 93-531, 94-114; 94-540, 97-458, 98-64, 98-123 and 98-124.

3. Funds available or distributed pursuant to Public Law 96-420, the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721 et. seq.) to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.
4. The value of the allotment provided a household under the Food Stamp Act of 1964 (7 U.S.C.A. 2017(b)).
5. The value of assistance to children as excluded under the National School Lunch Act (42 U.S.C. 1760(e)) and under the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)).
6. The value of commodities distributed under the Temporary Emergency Food Assistance Act of 1983 (P.L. 98-8, 7 U.S.C. 612c).
7. Allowances, earnings and payments to individuals participating in programs under the Job Training Partnership Act (Pub. L. 97-300, 29 U.S.C.A. 1552(b)).
8. Program benefits received under the Older Americans Act of 1965 (42 U.S.C. sub-section 3020(a)[b]) as wages under the Senior Community Service Employment Program (SCSEP). Organizations involved in SCSEP include: The American Association of Retired Persons; Green Thumb; University of Maine, Cooperative Extension; U.S. Forest Service; and subgrantees of the Bureau of Maine's Elderly, including Aroostook Area Agency on Aging, Central Maine Area Agency on Aging, Coastal Economic Development Corporation, Diocesan Human Relations Services, Eastern Area Agency on Aging, Mid-Coast Human Resources Council, Southern Maine Area Agency on Aging, Western Area Agency on Aging.
9. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113, 42 U.S.C. 5044).
10. The value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, Section 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1949.
11. The tax-exempt portions of payments made pursuant to the provisions of the Alaska Native Claims Settlement Act (P.L. 92-203, 43 U.S.C. 1620(a)).
12. Payments for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Pub. L. 93-113.
13. Any wages, allowances or reimbursement for transportation and attendant care costs, unless accepted on a case-by-case basis, when received by an eligible handicapped individual employed in a project under Title VI of the Rehabilitation Act of 1973 as amended by Title II of Pub. L. No. 95-602 (29 U.S.C. 7956(c)).

14. All student financial assistance including the following programs funded under Title IV of the Higher Education Act as amended:

- a. Pell Grants;
- b. Supplemental Educational Opportunity Grants;
- c. Grants to States for State Student Incentives;
- d. Special Programs for Students from Disadvantaged Backgrounds;
- e. Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farmwork;
- f. Robert C. Byrd Honors Scholarship Program;
- g. Assistance to Institutions of Higher Education;
- h. Veterans Education Outreach Program;
- i. Special Child Care Services for Disadvantaged College Students.

15. Payments to veterans for Aid and Attendance benefits.

- H. For any Household found ineligible, the Subgrantee will deduct paid and documented medical expenses not reimbursed for the income period from the gross income in an amount only enough to make Household eligible. Medical expenses may include medical and dental insurance premiums and transportation to medical appointments. Subgrantees will use Internal Revenue Service Publication 502, as same may be amended from time to time, to identify eligible medical and dental expenses.
- I. MaineHousing will recoup all outstanding Overpayments from any current or future Benefits until the Overpayment is paid in full. Primary Applicants will be required to refund any Overpayment. A request for refund will be made by the Subgrantee or MaineHousing. If the required refund is not made, the Household will be declared ineligible to receive Benefits until Overpayment is recouped in full.

4. Benefit Determination.

- A. Benefits are determined to ensure that Eligible Households with the lowest income and the highest Energy Cost in relation to income, taking into account family size, will receive a higher Benefit.
- B. Tenants residing in Subsidized Housing with heat included in their rent are only eligible to receive a Benefit in an amount that complies with Maine law to maximize benefits under the Supplemental Nutrition Assistance Program (SNAP).
- C. MaineHousing, or the Subgrantee as allowed by MaineHousing, will assign a number of points to an Eligible Household that correlates to their Energy Costs. The number of points will be adjusted by an assigned percentage that correlates to the Eligible Household's poverty level. The adjusted number of points will then be multiplied by a dollar value based on the amount of the federal HEAP grant received and the number of Eligible Households served in the previous Program Year, the average Energy Cost for an Eligible Household in the previous Program Year, any anticipated increase or decrease in the federal HEAP grant to be received in the current Program Year, and any anticipated increase or decrease in average Benefits or the number of Eligible Households. MaineHousing will announce the actual dollar value of Consumption Based and DHLC points no

later than the fifteen (15) calendar days following receipt of the federal HEAP grant award.

1. The number of points assigned to an Eligible Household will be determined pursuant to the following:

Calculated or Reported Energy Cost	Points
\$0-\$400	5
\$401-\$800	10
\$801-\$1200	15
\$1201-\$1600	20
\$1601-\$2000	25
\$2001-\$2500	30
\$2501 and over	35
Calculated or Reported Energy Cost falling between brackets will be rounded to the next higher or lower dollar amount, as appropriate. For example: \$400.01-\$400.49 will be rounded to \$400; \$400.50-\$400.99 will be rounded to \$401.	

Poverty Level as Calculated under the Federal Poverty Income Guidelines	Percentage of Points
0%-25%	130%
26%-50%	120%
51%-75%	110%
76%-100%	100%
101%-125%	90%
126%-150%	80%
151%-170%	70%
171%-180%	30%
181%-190%	20%
191%-200%	20%
201%-210%	15%
211%-220%	15%
221%-230%	15%
Calculated poverty level amounts falling between brackets will be rounded to the next higher amount. For example: income at 75.1% will be rounded to 76%.	

All final point results that are fractional will be rounded up to the nearest whole number.

2. Calculating Energy Costs. Energy Costs are calculated by the Consumption Based or DHLC method.
 - a. Consumption Based. Energy Costs will be based on the Eligible Household's actual Home Energy deliveries, as reported on the Annual Consumption Report, for the primary Heating System as declared on the Eligible Household's Application.
 1. If the primary Heating System is electric, Energy Costs will be calculated by deducting \$600 from the annual electricity cost as reported by the Vendor on the Annual Consumption Report. The \$600 deduction eliminates the non-heating usage of electricity.

2. If an Eligible Household resides in Subsidized Housing and has a Direct Energy Cost, any annual utility allowance for heating will be deducted from the Eligible Household's Energy Cost reported by the Vendor on the Annual Consumption Report.
3. Energy Cost will be calculated using the Consumption Based method provided the Eligible Household meets the following requirements:
 - a. The Eligible Household has a Direct Energy Cost and;
 - b. An Applicant occupied the residence for the entire previous Heating Season and;
 - c. The Eligible Household purchased all of their Home Energy for their primary Heating System from a Reporting Vendor(s) for the previous Heating Season and;
 - d. Reporting Vendor(s) submitted an Annual Consumption Report to MaineHousing that provided the Eligible Household's Home Energy delivery information and;
 - e. The Eligible Household's Energy Costs, as reported by Vendor(s) to MaineHousing, is for their residence only and;
 - f. The Eligible Household's primary Heating System does not use wood, wood pellets, corn, coal, or bio-bricks.
- b. Design Heat Load Calculation. DHLC shall be used to estimate the Energy Costs for Eligible Households that do not meet the requirements of the Consumption Based method. Under the DHLC, the number of rooms occupied by the Eligible Household shall be multiplied by the number of BTUs needed to heat an average sized room in a Dwelling Unit. That product will then be multiplied by the number of square feet of an average sized room in a Dwelling Unit. Next, that second product will be multiplied by the number of heating degree days of the Service Area in which the Eligible Household's Dwelling Unit is located. That third product is then divided by one million BTUs. The quotient is then multiplied by the cost of the Eligible Household's primary Home Energy type per one million BTUs. That fourth product is then divided by the efficiency rate of the primary Home Energy type to arrive at the Eligible Household's amount of energy consumption. The cost per one million BTUs and efficiency rate of the Applicant's Home Energy type will be periodically established by MaineHousing. The DHLC is based on the following factors:
 1. The total number of rooms in the Dwelling Unit as listed on the Application. Hallways, bathrooms, and closets are not counted in the total number of rooms;
 2. An assumed standard room size for the Dwelling Unit type. Standard room sizes and BTUs required to heat a Dwelling Unit vary by Dwelling Unit type because average room size and surface area exposure to the elements vary by Dwelling Unit type. The standard room sizes and BTUs used for each Dwelling Unit type are as follows:

Dwelling Unit Type	Standard Room Size	BTUs
Stick-built/Modular	144 square feet	14.3
Manufactured Home/mobile home	100 square feet	13
Apartment	120 square feet	8.3

- The heating degree days for the Service Area. Heating degree days are determined by the National Weather Station in Gray, Maine.

Subgrantee	Service Area - counties	Heating Degree Days
Aroostook County Action Program	Aroostook	9543
Community Concepts, Inc.	Androscoggin, Oxford	7373
Kennebec Valley Community Action Program	Kennebec, Somerset	7680
Kennebec Valley Community Action Program	Lincoln, Sagadahoc	7420
Penquis Community Action Program	Penobscot, Piscataquis	8245
Penquis Community Action Program	Knox	7359
The Opportunity Alliance	Cumberland	7426
Waldo Community Action Partners	Waldo	7297
Washington-Hancock Community Agency	Washington, Hancock	7771
Western Maine Community Action	Franklin	8866
York County Community Action Corporation	York	7012

- The estimated BTUs required to heat the Dwelling Unit;
- Average cost per one million BTU. MaineHousing determines the average costs per one million BTU annually. Oil, kerosene, and propane costs are obtained by averaging the costs reported by the Governor’s Energy Office (GEO). Average costs for all other fuel types are based on a representative survey of Vendors’ pricing.
- The efficiency rate for the primary Home Energy type listed on the Application. The Energy Cost per one million BTU and efficiency rate are based on the primary Home Energy type specified on the Eligible Household’s Application.

Home Energy Type	Efficiency Rate
Oil	65%
Kerosene	65%
Propane	65%
Natural Gas	65%
Electric	100%
Firewood	50%
Corn	60%
Wood Pellets	80%
Bio-bricks	80%

7. For Tenants in Subsidized Housing with a Direct Energy Cost, the annual utility allowance for heating, as provided by property manager on the Subsidized Housing form, must be deducted from the estimated Energy Cost in order to determine the Eligible Household's heat burden.

5. Payment of Benefits.

- A. A Primary Applicant shall select a Vendor that will deliver Home Energy to the Eligible Household. Payment of Benefits will be made directly to the Vendor.
 1. Except in the case of wood Vendors, MaineHousing, or a Subgrantee as allowed by MaineHousing, will pay a Benefit to the Vendor or the Primary Applicant within ten (10) business days of the date the Application is certified eligible or when HEAP grant funds are available, whichever is later.
 2. In the case of wood Vendors, MaineHousing, or a Subgrantee as allowed by MaineHousing, will make payment for a Benefit after the Vendor makes delivery as authorized by MaineHousing and/or the Subgrantee. The Vendor must return a completed purchase order, including Applicant and Vendor signatures, to MaineHousing, or a Subgrantee as allowed by MaineHousing, within thirty (30) calendar days of the date of purchase order issuance. Receipt of the purchase order must be entered into MERAC. Contingent on MERAC entry, MaineHousing, or the Subgrantee as allowed by MaineHousing, will make payment within ten (10) business days of the signed purchase order receipt date. If the purchase order is not returned within thirty (30) calendar days of the date of issuance it may be considered void. Extensions may be granted by the Subgrantee on a case-by-case basis.
- B. If there is no Vendor in the Service Area in which the Eligible Household resides then MaineHousing, or the Subgrantee as allowed by MaineHousing, may pay Benefits directly to the Primary Applicant.
- C. Payment of Benefits may be made directly to Tenants with an Indirect Determinable Energy Cost.

6. Benefit Returns and Transfer:

- A. Program benefits may not be sold, released or otherwise conveyed, with or without consideration, by the Eligible Household or the Vendor without written authorization from MaineHousing. MaineHousing will only authorize such conveyances when circumstances arise that prevent the Eligible Household from using the benefit and MaineHousing determines such conveyance is in the best interest of the Eligible Household and is consistent with the intent of the HEAP Act.
- B. Benefits issued in the current or previous Program Year may be eligible for reissue or transfer when:
 1. All Applicant(s) move in State but continue with same Vendor.
 2. All Applicant(s) move in State and change Home Energy vendors.
 3. Household changes Vendor.
 4. All Applicant(s) move in State from a Dwelling Unit with Direct Energy Cost to a Dwelling Unit with heat included in their rent (not including Subsidized Housing).

5. All Applicant(s) move in State to Subsidized Housing with Direct Energy Cost.
 6. Household changes Home Energy type.
 7. Primary Applicant has deceased and there are surviving Applicants of legal age remaining in the Household (unless surviving Applicant moves in State to a Household that has received a Benefit in the current Program Year).
- C. Household may be required to provide in writing the following in order to receive a Benefit reissue or transfer:
1. Primary Applicant's name
 2. Previous address
 3. Current address
 4. Current phone number
 5. Current rental agreement or current property tax bill, whichever is relevant
 6. Current electric/utility company name and account number
 7. Name on the electric/utility company account
 8. Primary Heating System and Home Energy type
 9. Fuel tank location
 10. Current Home Energy vendor name, address, and account number
 11. Primary Applicant's signature and date submitted

If for any reason the required documentation is not provided, the reissuance or transfer of Benefits may be delayed and/or Benefits may be forfeited.

- D. Benefits may not be eligible for reissue or transfer when:
1. It is determined that Primary Applicant committed Errors and Program Abuse when completing the Application.
 2. Primary Applicant's permanent residence changes to a nursing home or long term care facility and there are no Applicants of legal age remaining in the Household.
 3. All Applicant(s) move to Subsidized Housing with heat included.
 4. Primary Applicant moves in State into a Household that has been determined eligible for a Benefit in the current Program Year.
 5. The Benefit was issued before the previous or current Program Year.
 6. All Applicant(s) move to an ineligible Dwelling Unit.

7. Primary Applicant has deceased and there are no surviving Applicants of legal age remaining in the Household.
8. All Applicants move out of State.

If the Household subsequently moves to an eligible Dwelling Unit, the Benefit may be eligible for reissue provided the Benefit was for the previous or current Program Year.

- E. In the event Vendor receives a Benefit Return form requesting the return of Benefits paid to Vendor on behalf of Eligible Households, Vendor shall return such Benefits to MaineHousing, or Subgrantee as allowed by MaineHousing, within fifteen (15) calendar days of date of Benefit Return form. Once the funds are received, MaineHousing will process the reissue or transfer as appropriate within fifteen (15) calendar days.

7. Energy Crisis Intervention Program (ECIP).

- A. A Household may be eligible for ECIP if a Household member's health and safety is threatened by an Energy Crisis situation and the Household does not have the financial means or ability to receive credit from a vendor to avert the Energy Crisis. The Subgrantee will determine whether the Household is experiencing an Energy Crisis on the Date of Application.
 1. An Eligible Household is income eligible for ECIP. If a Household has not been certified eligible, the Household's income eligibility for ECIP will be based on one of the following timeframes, whichever allows eligibility:
 - a. The twelve (12) calendar months immediately preceding the Date of Application;
 - b. The three (3) calendar months immediately preceding the Date of Application;
 - c. The calendar month immediately preceding the Date of Application; or;
 - d. The thirty (30) days immediately preceding the Date of Application.
 2. To determine if Household is in Energy Crisis:
 - a. Reading of 1/8 tank or less on a standard 275 gallon heating oil tank;
 - b. Reading of 25% or less on a propane tank;
 - c. 3-day or less supply for other delivered Home Energy types.
 3. To determine an Energy Crisis with respect to utility terminations:
 - a. Household has received a disconnection notice;
 - b. Household has exhausted its ability to negotiate and pay the terms of a reasonable payment arrangement.
- B. Allowable expenditures must be related to averting an Energy Crisis and may include:
 1. Home Energy deliveries;

2. Surcharges, reconnection charges, or penalties related to a final utility disconnect notice. Utility costs must be directly related to the operation of the Heating System;
3. Heating System repair.

C. Unallowable Expenditures:

1. ECIP funds cannot be used to pay solely for a delivery charge.
2. ECIP funds cannot be used if the Household has any other Heating System that is operable and has a supply of product for that Heating System.
3. ECIP funds cannot be used to pay for surcharges, reconnection charges, or penalties related to a final utility disconnect when that utility is not required for the operation of the primary Heating System.

D. The maximum ECIP benefit per Eligible Household per Program Year shall be determined each Program Year by MaineHousing based on Home Energy costs, economic conditions, and available funding.

E. ECIP will be administered pursuant to HEAP:

1. ECIP timeframe is November 1st through the following March 31st;
2. Conditioned on the availability of ECIP funds, some form of assistance that will resolve the Energy Crisis, if Household is eligible to receive such benefits, will be provided within 48 hours after Household has applied for ECIP;
3. Conditioned on the availability of ECIP funds, some form of assistance that will resolve the Energy Crisis, if Household is eligible to receive such benefits and is in life threatening situation, will be provided within 18 hours after a Household has applied for ECIP.

F. The Subgrantee will provide the Primary Applicant written notice of ECIP denial within 3 business days.

G. If a Household receives ECIP and it is subsequently determined that the Household was not eligible, MaineHousing or the Subgrantee may require the Household to repay the amount of ECIP. MaineHousing may deduct the amount of ECIP received by the Household from a current and/or future Benefit.

H. ECIP Payment to Vendors.

1. Except in the case of wood Vendors, MaineHousing, or a Subgrantee as allowed by MaineHousing, will make payment for ECIP after the Vendor makes delivery as authorized by MaineHousing/Subgrantee. The Vendor must return a completed purchase order, a metered delivery ticket, and invoice to MaineHousing/Subgrantee. Receipt of the purchase order must be entered into MERAC. Contingent on MERAC entry, MaineHousing/Subgrantee will make payment within ten (10) business days of the receipt of the completed purchase order, a metered delivery ticket, and invoice.
2. In the case of wood Vendors, MaineHousing, or a Subgrantee as allowed by MaineHousing, will make payment for ECIP after the Vendor makes delivery as authorized by MaineHousing/Subgrantee. The Vendor must return a completed purchase order, including Applicant and Vendor signatures, to MaineHousing/Subgrantee. Receipt

of the purchase order must be entered into MERAC. Contingent on MERAC entry, MaineHousing/Subgrantee will make payment within ten (10) business days of the signed purchase order receipt date.

8. Central Heating Improvement Program (CHIP).

- A. The purpose of CHIP is to assist Eligible Households that are experiencing an Energy Crisis caused by Heating System malfunction or failure. Dwelling Units being weatherized will receive priority for CHIP services.
- B. Subgrantees shall administer and operate CHIP in their Service Areas unless otherwise determined by MaineHousing.
- C. Household may be eligible for CHIP if the Household is eligible for Benefits pursuant to this Rule.
- D. Maximum Benefits. The maximum benefit amounts listed below represent life-time limits for a given Dwelling Unit.
 - 1. Owner Occupied Dwelling Units: A life-time maximum benefit of \$4,000 for an Eligible Household. The maximum allowed in an owner occupied multi-family building, when owner is Eligible Household, is \$4,000.
 - 2. Rental Units Occupied By An Eligible Household: A life-time maximum benefit of \$300 for an Eligible Household. The maximum allowed in a non-owner occupied multi-family building is the lesser of \$300 times the number of Heating Systems that provide heat to Eligible Households or \$1,200.
 - 3. Life Estates/Leases/Interests: \$300 life-time maximum benefit per Dwelling Unit.
- E. Proof of Ownership. The Subgrantee shall verify ownership of all Dwelling Units and Rental Units prior to performing any work. Verification will consist of obtaining a copy of acceptable proof(s) of ownership that may include current property tax bill, statement from the local tax assessor, town clerk or similar municipal official, or documentation from electronic registry.

The Subgrantee must obtain the written permission of the owner of the Rental Unit prior to performing any work on the Heating System unless the Tenant has exercised his or her right under 14 M.R.S.A. Section 6026 to make certain repairs.

- F. A Dwelling Unit will not be eligible under CHIP if:
 - 1. Dwelling Unit has received prior CHIP services to the life-time maximum benefit;
 - 2. Dwelling Unit has been designated for acquisition or clearance by a federal, state, or local program or order;
 - 3. Dwelling Unit is for sale;
 - 4. Dwelling Unit is vacant;
 - 5. Dwelling Unit is uninhabitable;
 - 6. Dwelling Unit is in poor structural condition making the installation of CHIP services impractical, impossible, or ineffective;

7. Dwelling Unit is in such poor structural condition that the proposed CHIP services would have a longer life expectancy than the Dwelling Unit;
8. Dwelling Unit has been damaged by fire, flood or an act of God and repair of the damage is covered by insurance;
9. There are obvious discrepancies found between the information supplied on the Application and observed conditions during the CHIP process. The Subgrantee must resolve any discrepancies before work can continue;
10. Dwelling Unit has any other Heating System that is operable.

G. CHIP Allowable Uses. CHIP funds may be used only for repair or replacement of dangerous, malfunctioning, or inoperable Heating Systems that pose a threat to the health and safety of the Eligible Household. Allowable uses include:

1. Cleaning, tuning, and evaluating oil or gas systems;
2. Cleaning, evaluating, and servicing solid fuel systems;
3. Replacing oil or gas burners;
4. Replacing cracked heat exchangers;
5. Replacing oil, gas, electric or solid fuel Heating Systems;
6. Sealing and insulating Heating System pipes or ducts in unconditioned spaces;
7. Installing electrical or mechanical Heating System ignition systems;
8. Replacing or relocating thermostats and anticipator adjustment;
9. Baffling of the combustion chamber;
10. Optimizing the firing rate;
11. Cleaning of the chimney;
12. Smoke Alarms;
13. Fire extinguishers;
14. Carbon Monoxide detectors;
15. Other measures necessary to bring Heating Systems into compliance with applicable State and local codes as defined by the State's Oil and Solid Fuel Board; and
16. Other measures necessary to correct any Heating System problems that pose an immediate threat to the health and safety of the Eligible Household.

H. Fuel Switching. As a general guideline, the practice of fuel switching when replacing inefficient energy measures (heating and cooling units, furnaces, vented space heaters) is not allowed. However, if the Subgrantee determines that the switching of a fuel source is warranted, then a written request should be submitted to MaineHousing for review and consideration (on a case-by-case basis) prior to

the installation of the measure.

- I. Subgrantee must perform a final inspection on all CHIP services in excess of \$800. Inspections will include an evaluation to determine:
 1. Compliance with applicable codes;
 2. That all work performed was authorized by the Subgrantee;
 3. The combustion efficiency level of the Heating System where technically feasible.
- J. Specific Procurement Requirements. Prior to the performance of CHIP services, the Subgrantee shall follow the procedures below:
 1. Procurement over \$800.
 - a. Procurement of services, including materials, equipment and services from specialized trades, such as electricians, plumbers, masons and oil burner repair people shall be performed in accordance with the following procedures.
 1. Perform a price survey for the required materials, equipment and services.
 2. Receive price quotations or bids from at least three (3) reputable Contractors and document them on a survey sheet.
 3. Purchase the materials, equipment or services from the Contractor whose bid or proposal is the lowest, taking into consideration the Contractor's performance record and other relevant factors.
 - b. If a Contractor is paid \$2,500 or more annually, the Subgrantee must enter into a contract with the Contractor.
 2. The Subgrantee must prepare an Invitation to Bid or a Request for Proposal, which:
 - a. Identifies all requirements which prospective bidders must fulfill;
 - b. Identifies all factors which the Subgrantees will consider in evaluating and awarding bids.
 3. All bids must be sealed and received by the Subgrantee contact person prior to a specified time for a bid opening at a specified time and location.
 4. The Invitation to Bid or Request for Proposal must be mailed or delivered to no less than three (3) prospective contractors who may reasonably be expected to submit a bid.
 5. Procurement not to exceed \$800. Notwithstanding the above, services not exceeding \$800 may be performed by a Contractor of the Subgrantee's choice, provided the estimate for the work is reasonable.
 6. Sole Source Procurement.
 - a. Sole source procurement may be used in the following instances:

1. Declared public emergency will not permit a delay necessary for competitive solicitation;
 2. A specific item or service is available from only one source; or
 3. Procurement is unfeasible under other methods.
- b. Subgrantee shall submit a written statement justifying the use and approval of all sole source procurements, regardless of contract amount, to MaineHousing for its consideration.

9. HEAP Weatherization.

- A. The purpose of HEAP Weatherization is to supplement the Weatherization Assistance Program.
- B. Eligibility. A Household may be eligible for HEAP Weatherization if the Household is eligible for Benefits pursuant to this Rule.
- C. Allowable Uses - HEAP Weatherization may only be used for the activities allowed under the Weatherization Assistance Program at Chapter 25 of MaineHousing's Rules. For the purposes of HEAP Weatherization the State follows DOE guidelines exclusively at 10 C.F.R. Parts 400 and 600.
- D. Fuel Switching: As a general guideline, the practice of fuel switching when replacing inefficient energy measures (heating and cooling units, furnaces, vented space heaters) is not allowed. However, if the Subgrantee determines that the switching of a fuel source is warranted, then a written request should be submitted to MaineHousing for review and consideration (on a case-by-case basis) prior to the installation of the measure.
- E. Subgrantees shall administer and operate HEAP Weatherization in their Service Areas, unless otherwise authorized by MaineHousing.
- F. For the purposes of HEAP Weatherization, Subgrantees must conduct a public bid process at least annually as prescribed by MaineHousing.

10. Administration of the Program.

- A. MaineHousing will prepare and submit to the Secretary of the United States Department of Health and Human Services an annual State Plan for HEAP in conformity with the provisions of the HEAP Act. MaineHousing will notice a public hearing for the purpose of taking comments on the State Plan and will also prepare a transcript of such comments.
- B. HEAP Handbook. The HEAP Handbook is an operations manual for the administration of the Programs. This Rule shall control in the event of any inconsistency between the HEAP Handbook and this Rule.
- C. General. To the extent practicable, MaineHousing will contract with Subgrantees for the purpose of administering the Programs and may require the Subgrantee to provide benefits in connection therewith, including Supplemental Benefits if such benefits become available during the Program Year, to Eligible Households. MaineHousing may, in its discretion, provide benefits in connection with the Programs and make prepayments, installment payments and advances with or without interest in connection therewith, including without limitation, payment of direct benefits to Eligible Households or Vendors, or may contract with other entities, such as municipalities, to administer the Programs and provide benefits.

- D. Conflict of Interest. No employee, officer, board member, agent, consultant or other representative of Subgrantee, Vendor, or Contractor who exercises or has exercised any function or responsibility with respect to Programs' activities or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from Programs' activities or benefits or have in an interest in any contract, subcontract or agreement regarding the Programs' activities, or the proceeds there under, which benefits him or her or any person with whom he or she has business or family ties. Subgrantees, Vendors, and Contractors shall notify MaineHousing of any potential conflict of interest.
- E. Confidentiality. Subgrantees, Vendors, Contractors, and their employees and agents shall keep confidential:

Applicant or beneficiary information obtained in the administration of the Programs, including without limitation, an individual's name, address and phone number, household income, assets or other financial information, and benefits received ("Confidential Information").

Subgrantees, Vendors, Contractors, and their employees and agents shall safeguard and protect from disclosure at all times Confidential Information including, without limitation, taking the following steps:

1. Put measures in place to prevent the loss, theft, misappropriation or inadvertent disclosure of Confidential Information.
 2. Encrypt all Confidential Information contained on computers, laptops, and other electronic devices and media used in whole or in part, in the operation or administration of the Programs.
 3. Send e-mail or e-mail attachments containing Confidential Information only if encrypted or only through a secure e-mail server.
 4. Make their employees, officers, agents, contractors, sub-contractors and other representatives who operate or administer any of the Programs or otherwise provide services under the Programs aware that the responsibility to safeguard and protect Confidential Information applies at all times, whether or not they are at a work location during normal business hours.
 5. Limit disclosure to persons with a direct need to know.
- F. MaineHousing will conduct program and fiscal monitoring of Subgrantees and Vendors to ensure compliance with Federal, State, and MaineHousing rules and regulations in a manner consistent with applicable state law, as may be amended from time to time, and the HEAP Act.

11. Subgrantees.

- A. General. To the extent practicable, MaineHousing will contract with Subgrantees for the purpose of administering the Programs and may require the Subgrantee to provide benefits in connection therewith, including Supplemental Benefits if such benefits become available during the Program Year, to Eligible Households. MaineHousing may, in its discretion, provide benefits in connection with the Programs and make prepayments, installment payments and advances with or without interest in connection therewith, including without limitation, payment of direct benefits to Eligible Households or Vendors, or may contract with other entities, such as municipalities, to administer the Programs and provide benefits.

B. Service Areas. MaineHousing will select at least one Subgrantee to administer the Programs in each Service Area.

C. Selection of Subgrantees. Subgrantees will be selected annually based on the following criteria:

1. Experience with providing Fuel Assistance or similar programs to low-income persons;
2. Current capacity to administer a timely and effective Fuel Assistance program for the intended Service Area;
3. Demonstrated capacity to adequately serve low-income persons residing in their Service Areas;
4. The availability of other qualified entities to service a particular area;
5. The geographic area customarily serviced by the potential Subgrantee;
6. Cost efficiency in administering a Fuel Assistance program;
7. The ability to enhance accessibility to other low-income programs administered by the Subgrantee;
8. Acceptable schedule for taking Applications; and
9. The ability to perform outreach activities and serve homebound recipients.

Subgrantees shall make annual, written applications to MaineHousing that address each of the criteria in Section 3.C. Subgrantee applications must be received no later than June 1st of each year.

D. Allocation to Each Subgrantee. MaineHousing will determine the annual allocation of HEAP funds to each Subgrantee, the amount of which annual allocation shall not include any amount of HEAP funds allocated to MaineHousing to pay HEAP benefits in the event MaineHousing elects to provide benefits directly. MaineHousing will base any allocation determination on the number of Applications certified eligible in the Service Areas in the previous Program Year.

E. Subgrantee Administrative Expenses. Subgrantees shall be permitted administrative and program expenses necessary to carry out its responsibilities under this Rule and the Programs. Such expenses will be allowed in a manner consistent with the provisions of the HEAP Act. If reasonable in amount, administrative expenses may include the following:

1. Direct costs allocated to the Programs for salaries paid to individuals who participate in administering the Programs. Subgrantees will also be allowed related salary expenses such as those required for FICA, unemployment compensation taxes, retirement and related insurance premium costs.
2. Required contract and consulting fees.
3. Travel costs incurred by Subgrantee personnel necessary to administer the Programs.
4. The actual expense of leasing, renting or purchasing necessary equipment and office supplies.

5. Expenses incurred for leasing office space, telephone, electricity, other utilities, and postage and advertising necessary to administer the Programs.
 6. Any other administrative expense if authorized by MaineHousing before it is incurred.
- F. Other Benefits. Subgrantees may be reimbursed reasonable expenses incurred to provide the following services to Applicants in accordance with Assurance 16 of the HEAP Act or other applicable provisions:
- Budget Counseling
 - Energy Education
 - Payment Arrangement Assistance
 - Program Referrals
- Other similar services, not of an administrative nature, may also be included.
- G. Subgrantee's Responsibilities. The responsibilities of the Subgrantee include, but are not limited to, the following and as further defined in the annual Subgrant Agreement:
1. To conduct client outreach in a manner consistent with the HEAP Act and as prescribed in this Rule.
 2. To accept and verify Applications from Primary Applicants in a manner consistent with provisions of the HEAP Act and as prescribed in this Rule.
 3. To determine Household eligibility in a manner consistent with provisions of the HEAP Act and as prescribed in this Rule.
 4. To pay benefits, if required by MaineHousing, to or on behalf of Eligible Households in a manner consistent with provisions of the HEAP Act and as prescribed in this Rule.
 5. To provide documentation and assistance as needed for MaineHousing to conduct informal reviews and fair hearings.
 6. To pay Supplemental Benefits, if required by MaineHousing, if such benefits become available during the Program Year.
 7. To use MaineHousing database software and equipment, MERAC and ECOS.
 8. To address no-heat emergencies.
 9. To cost effectively administer and operate the Programs.
 10. To prioritize Eligible Households for HEAP Weatherization services in the following order:
 - a. Households that have members who are Elderly, twenty-four months of age or under, or susceptible to hypothermia as diagnosed by and documented by a statement from a physician.
 - b. Households that consume the highest amounts of energy per square foot of living space, thereby representing the highest potential energy inefficiency.

- c. Households where there are opportunities to leverage funds for providing weatherization services.
 - d. All other Eligible Households.
11. To coordinate services between Programs.
 12. To submit to MaineHousing production schedules for the Programs.
 13. To submit to MaineHousing work plans and budgets, monthly status reports and any other such reports or information required in connection with the Programs.
 14. To submit to MaineHousing billing information, including zero billings, for open contracts by 20th of each month.
 15. To use forms provided or approved by MaineHousing to administer the Programs.
 16. To protect personally identifiable information.
 17. At Applicant's request, to make reasonable accommodations for Persons with Special Needs and other Applicants who are unable to travel to an intake site.
 18. To ensure that procurement of materials and services is conducted in a manner to provide open and free competition and to avoid any appearance of impropriety, the Subgrantee shall be bound by general federal procurement and property management principals set forth in OMB circular A-110 (attachments N and O).

H. Recordkeeping; Reporting and Accounting. Subgrantee shall comply with the following requirements:

1. Subgrantee shall maintain comprehensive and accurate documentation, payroll reports, financial statements, and other records in connection with its administration of the Programs, including at a minimum, the amount and disposition of the Programs' funds received by the Subgrantee and the total cost necessary to administer the Programs. Subgrantee shall keep such records separate and identifiable from the records of Subgrantee's other business and activities. MaineHousing and its representatives shall have the right to examine such records at reasonable times upon reasonable notice by MaineHousing. Subgrantee shall furnish copies of any such records requested by MaineHousing. All records must be retained by the Subgrantee for a minimum of three (3) years from the end of relevant contract period. In cases of litigation, other claims, audits, or other disputes the Subgrantee will retain all relevant records for at least one (1) year after the final disposition thereof.
2. Subgrantee shall comply with all reporting requirements of MaineHousing. Subgrantee shall submit to MaineHousing an annual budget prior to each Program Year. Within ninety (90) calendar days after the close of the Subgrantee's fiscal year, Subgrantee shall furnish to MaineHousing an annual financial statement of Subgrantee, prepared by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied, generally accepted auditing standards consistently applied, and OMB Circular A-133, if applicable.

I. Funds for administrative expenses for the Program Year and supplemental funding received, if any, may be spent only between October 1 and the following September 30 of the applicable Program

Year unless otherwise authorized by MaineHousing.

J. Noncompliance.

1. MaineHousing shall have the right to terminate the Subgrantee Agreement in its sole discretion if it determines the Subgrantee has failed to perform one or more of its obligations to include malfeasance or misappropriation of funds. A written Notice of Termination of Subgrantee will set forth the specific violation.
2. For non-compliance other than those which MaineHousing determines are subject to immediate termination, a Deficiency Notice will be sent to the Subgrantee in the event it fails to comply with any provision of this Rule, the Subgrantee Agreement, the Program Handbook, and the provisions of other applicable law. The Notice will set forth the specific violation and allow a reasonable time period for response by the Subgrantee. Upon review and consideration of any responses, MaineHousing will notify the Subgrantee in writing of any action to be taken and may establish a reasonable time period within which remedial action must be taken. Failure of Subgrantee to comply will result in a Notice of Termination of Subgrantee stating the cause and effective date of its termination.
3. MaineHousing shall have the right to suspend in whole or in part the Subgrantee's performance of one or more services provided under the Agreement whenever MaineHousing determines such suspension is in MaineHousing's best interest.

12. Indian Tribes.

- A. Direct Allocation to Indian Tribes. Indian Tribes may receive a direct allocation of HEAP funds from the Secretary of the United States Department of Health and Human Services pursuant to the HEAP Act. The amount of the direct allocation is determined by MaineHousing. In its determination MaineHousing will consider the number of Eligible Households during the previous Program Year that include an Applicant who is a member of the Indian Tribe, when that information is available.
- B. Agreements with Indian Tribes. When an Indian Tribe receives a direct allocation of Fuel Assistance and ECIP, MaineHousing will enter into an agreement with the Indian Tribe that, at a minimum, provides for the coordination of services and administration of the Fuel Assistance and ECIP by Indian Tribe and Subgrantees to prevent duplication of services.

13. Vendors.

- A. Vendor Eligibility. A vendor interested in becoming a Vendor must demonstrate the capacity and stability of its business to MaineHousing's satisfaction. The vendor must supply a credit report and a business plan. The vendor must be in business for one year prior to becoming a Vendor.

MaineHousing reserves the right to exclude a vendor for the following, not limited to:

1. Any bankruptcies or judgments;
2. Refusal to sign a credit report release;
3. Owners and/or officers of vendor were previously owner/officer of terminated Vendor;
4. Failure to comply with Close-Out requirements.

B. Enrollment

1. Open Enrollment for new vendors: vendors may enter into a Vendor Agreement during the time period as prescribed by MaineHousing. If the vendor does not submit accurate and complete documentation the vendor may not be allowed to participate in the current Program Year.
2. Re-Enrollment for Vendors: Vendors who have a current Program Year contract may enroll as prescribed by MaineHousing. Continued participation is contingent upon performance and compliance with terms of Vendor Agreement.

C. MaineHousing, at its discretion, may terminate any Vendor:

1. That does not comply with the terms and conditions of the Vendor Agreement;
2. That fails to provide documentation and cooperate with any audit/investigation and/or the return of unused Benefits as determined by any audit/investigation. In addition, MaineHousing may undertake any of the following:
 - a. Bar the Vendor from future participation;
 - b. Refer the case to state or federal officials for criminal prosecution or civil action; and
 - c. Pursue other remedies as determined by MaineHousing.

D. Vendors must comply with state law concerning consumer home heating rights, which is described in Office of the Maine Attorney General Consumer Law Guide Chapter 19.

E. Oil and kerosene Vendors must provide a Discount Off Retail. ECIP deliveries are not subject to Discount Off Retail.

Vendor may not consider an Eligible Household's outstanding indebtedness to Vendor in calculating the Retail Cash Price applicable to a delivery of Home Energy to that Eligible Household.

F. Return of Payments

1. In the event Vendor receives a Benefit Return form requesting the return of Benefits paid to Vendor on behalf of Eligible Households, Vendor shall return such Benefits to MaineHousing, or Subgrantee as allowed by MaineHousing, within fifteen (15) calendar days of date of Benefit Return form.
2. In the event Vendor becomes aware of any of the following events affecting an Eligible Household, Vendor shall within fifteen (15) calendar days of the date that Vendor becomes aware of any such event, submit to MaineHousing a completed Benefit Return form and return any remaining Benefits paid to Vendor on behalf of the affected Eligible Household:
 - a. The death of an individual who was the sole member of an Eligible Household;
 - b. The institutionalization of an individual who was the sole member of an Eligible Household;

- c. Vendor's receipt of a written notice from an Eligible Household that it no longer desires to receive Home Energy deliveries from Vendor;
 - d. An Eligible Household has not received deliveries of Home Energy for twelve (12) consecutive months;
 - e. An Eligible Household has moved out of Vendor's Service Area;
 - f. An Eligible Household has moved out of State;
 - g. Vendor has been paid an excessive Benefit on behalf of the Eligible Household.
3. Vendor shall return to MaineHousing all unused Benefits in its possession or custody, whether directly or indirectly, within fifteen (15) calendar days of the termination of the Vendor Agreement.
 4. With respect to each return of Benefits, the Vendor agrees to provide in writing: the name and address of the Vendor; the name and address of the Eligible Household; the Eligible Household's account number; the Benefit amount being returned; and a concise explanation for the return of funds. In addition Vendor must include a detailed account history showing delivery activity and payment activity from twelve (12) months prior to the date the Benefit was received by Vendor to the current date. Vendor must also provide any other information required by MaineHousing related thereto.
 5. Vendors may refund credit balances to Eligible Households only to the extent that such credit balances can be documented and demonstrated to be the Eligible Household's funds and not Fuel Assistance funds.
- G. Benefits are available for use during the Program Year of receipt and the Program Year immediately following. Vendors must review Eligible Household accounts at the end of each Program Year and identify Benefits that have not been used during those two Program Years. All such unused Benefits must be returned to MaineHousing no later than October 31 of the second Program Year.

H. Use of Benefits.

1. Benefits credited to an Eligible Household's account must be applied to fuel purchases first, before other funds such as budget plans or pre-buys are used.
2. Program benefits may not be sold, released or otherwise conveyed, with or without consideration, by the Eligible Household or the Vendor without written authorization from MaineHousing. MaineHousing will only authorize such conveyances when circumstances arise that prevent the Eligible Household from using the benefit and MaineHousing determines such conveyance is in the best interest of the Eligible Household and is consistent with the intent of the HEAP Act.
3. Benefits cannot be used to pay Incidental Costs.
4. Unless otherwise authorized by MaineHousing, or Subgrantee as allowed by MaineHousing, the Vendor may only deliver the product stated on the Vendor Voucher Report for Fuel Assistance and purchase order for ECIP.
5. Vendor may deliver the entire Benefit if the Household has placed an order (for partial Benefit) or if the Household is on automatic delivery unless:

- a. The Household advises the Vendor all Applicants are moving;
 - b. The Household advises the Vendor that Household's Heating System has mechanical difficulties;
 - c. The Household's Home Energy storage tanks are either being replaced or do not meet code.
6. Vendor may apply Benefits to any indebtedness incurred for Home Energy deliveries for an Eligible Household on or after October 1st of the current Program Year whether or not the delivery has been paid for by client.
- I. Vendor Watch List: In the event MaineHousing determines, in its sole judgment based on Vendor's actions or omissions or other information obtained by MaineHousing directly or from any third party, that such actions, omissions or other information raise issues concerning Vendor's continued ability to make Home Energy deliveries or otherwise comply with the terms of the Vendor Agreement, or that Vendor's performance is out of compliance with the requirements of the Vendor Agreement, MaineHousing may place, in its sole discretion, Vendor on a Watch List.
- J. Prohibited Discrimination. The Vendor is prohibited from discriminating against any Eligible Household regarding the extension of credit to purchase Home Energy or other services, the price of Home Energy or other services, or the terms or conditions of the delivery of Home Energy or other services solely on the basis of its being an Eligible Household.

14. Errors and Program Abuse.

A. Reports of Errors and Program Abuse

- 1. Subgrantees must report in writing to MaineHousing suspected Errors and Program Abuse related to Programs.
- 2. Any individual may report to MaineHousing suspected Errors and Program Abuse related to Programs:
 - a. By telephone at 1-800-452-4668 or (207) 626-4600
 - b. In writing to MaineHousing, ATTN: LIHEAP Errors and Program Abuse, 353 Water Street, Augusta, Maine 04333
 - c. By e-mail to LIHEAPcompliance@mainehousing.org;
 - d. Or via MaineHousing's website at <http://www.mainehousing.org/contact-us/info-request-form>.

The report must include the name of the person being reported, their county of residence, and details of the suspected Errors and Program Abuse.

- B. MaineHousing will investigate all reported Errors and Program Abuse. If there is documented information to indicate Errors and Program Abuse, MaineHousing will notify the Applicant and provide them an opportunity to respond. Based on the response, MaineHousing will determine what, if any, appropriate action should be taken.
- C. Once Errors and Program Abuse is confirmed or if an Applicant fails to respond to inquiries regarding suspected Errors and Program Abuse, an Overpayment will be calculated and

communicated to the Applicant. In addition to the Overpayment, the communication will include: 1) the facts surrounding the decision, 2) the reason for the decision, and 3) the manner by which the Applicant can request an appeal. MaineHousing will investigate the previous three (3) Program Years from the Date of Discovery. The Overpayment may include any or all of those three (3) years.

- D. When calculating an Overpayment MaineHousing will use the HEAP Handbook in effect for the applicable years the Overpayment occurred.
- E. An Applicant may request a Fair Hearing to dispute an Overpayment. The Applicant must submit to MaineHousing a written request for a fair hearing no later than thirty (30) calendar days from the postmark date of the first notification from MaineHousing of suspected Errors and Program Abuse. All requests for fair hearing shall follow the Rule as set forth in Section 15.
- F. MaineHousing will pursue recouping of Overpayments by any and all of the following:
 - 1. Applicant may pay MaineHousing the full amount an Overpayment.
 - 2. Applicant may enter into a payment arrangement. Minimum monthly payment allowed will be set at \$20.00 a month.
 - 3. Despite the existence of a repayment agreement, MaineHousing will recoup any current and future Benefits to offset against an Overpayment balance.
 - 4. MaineHousing will recoup Benefits on account with the Applicant's Vendor to offset against an Overpayment balance.
- G. When Applicant fails to repay Overpayment, the case may be referred to other internal and external groups for additional action.
- H. MaineHousing may close an Overpayment for any of the following reasons:
 - 1. Overpayment has been paid in full.
 - 2. The overpayment is determined to be invalid based on a fair hearing decision or a court decision.
 - 3. All adult persons(s) responsible for Overpayment are deceased.

15. Appeal.

- A. The benefit notification shall:
 - 1. State the Benefit amount;
 - 2. State the date the Benefit was sent to the Vendor;
 - 3. State the approved Home Energy type;
 - 4. State the manner by which the Applicant can request an informal review;
 - 5. State the manner by which the Applicant can request an appeal.

B. The denial notification shall:

1. State the facts surrounding the decision;
2. State the reason(s) for the decision;
3. State the manner by which the Applicant can request an appeal;
4. State the manner by which the Applicant can request an appeal.

C. Informal Review.

1. Informal reviews are intended to provide a minimum hearing requirement and need not be as elaborate as the fair hearing. An Applicant may request, in writing, an informal review when:
 - a. Applicant suspects a math or calculation error was made in determining the amount of the Benefit.
 - b. Applicant's Application was denied due to lack of complete documentation to process the Application.
 - c. Applicant has questions about the amount of the Benefit.

D. Informal Review Procedures. The informal review will be conducted by a person other than the one who made or approved the decision under review or a subordinate of this person. MaineHousing will review the file, conduct necessary research, and give the Applicant an opportunity to present written or oral objections to the decision under review. In rendering a decision MaineHousing will evaluate the accuracy of the calculations, the level of documentation provided by the Applicant, and the accuracy of the decision. MaineHousing will communicate the results of the research/review to the Applicant. This decision will represent final agency action in regards to the determination of whether there was a math or calculation error or incomplete documentation.

E. Written requests for informal review may be mailed to MaineHousing, 353 Water Street, Augusta, Maine 04330; or emailed to LIHEAPcompliance@mainehousing.org.

F. The Applicant must submit written request no later than:

1. Thirty (30) calendar days from the postmarked date of the denial notification;
2. Thirty (30) calendar days from the postmarked date of the benefit notification; or
3. Twenty (20) calendar days from the date of application.

G. Fair Hearing.

1. In situations other than those outlined in 15.C.1.a. or b., the Applicant may request a fair hearing in accordance with the Maine Administrative Procedures Act, Title 5, Chapter 375.
2. Fair hearings shall be conducted by the Director of MaineHousing (or his/her designee) or such other contractor selected by MaineHousing. MaineHousing or any party may receive a transcript of the hearing upon payment of the reasonable cost for the production thereof.

3. The Hearing Officer may allow the submission of briefs and reply briefs upon request. If briefs are allowed, the hearing officer will set a reasonable schedule for their submissions.
4. Within thirty (30) calendar days of the hearing's conclusion or the expiration of the time period within which to submit briefs, the hearing officer will prepare a recommended hearing decision. Copies of the recommended decision will be provided to the appellant. The appellant shall be allowed no more than ten (10) calendar days after the date of the recommended decision to submit responses or exceptions to the recommended decision. Responses or exceptions, to the extent filed, are hereby deemed part of the hearing record. All responses or exceptions which are timely filed will be forwarded to the Director of MaineHousing.
5. A final decision and order will be made by the Director of MaineHousing in writing within sixty (60) calendar days of receipt of the hearing officer's recommendation or within sixty (60) calendar days of any responses or exceptions timely filed. In the event the Director of MaineHousing presides over a hearing, she/he shall render his/her decision and order within sixty (60) calendar days of the hearing's conclusion or sixty (60) calendar days of the expiration of the period within which to file responses or exceptions to the recommended decision. The Director's decision and order shall include findings of fact sufficient to apprise the parties of its basis. A copy of the decision and order will be provided promptly to each party to the proceeding or his representative of record. Written notice of the party's right to appeal the decision and other relevant information will be provided to the parties at the time of the decision and order. The decision and order will be implemented by the Subgrantee no later than (10) calendar days after receipt unless stayed on appeal.

16. Additional Provisions.

- A. Other Laws. If this Rule conflicts with any provision of applicable federal or State law, including without limitation the Act and the HEAP Act, such federal or State law shall control.
- B. Additional Requirements. This Rule does not preclude such additional or alternative requirements as may be necessary to comply with the Act and the HEAP Act.
- C. Pool of Eligible Households. This Rule establishes a pool of eligible applicants but does not preclude additional reasonable criteria and does not confer any automatic right or entitlement on any person or entity eligible hereunder.
- D. Availability of Funds. Assistance provided pursuant to this Rule is conditioned on the availability of HEAP funds.
- E. Waivers. Upon determination for good cause, the Director of MaineHousing, or the Director's designee, may, subject to statutory limitations, waive any provision of this Rule. Each waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds for the waiver.
- F. Final Action. The Director of MaineHousing, individually or by exercise of the delegation powers contained in the Act, shall make all decisions and take all action necessary to implement this Rule. Such action of the Director shall constitute final agency action.

BASIS STATEMENT: This rule repeals and replaces in its entirety the current *Home Energy Assistance Program* rule. The rule establishes standards for administering fuel assistance, emergency fuel assistance, weatherization, and heating system repair and replacement funds to low income households in the State of Maine. The replacement rule (i) updates federal poverty guidelines; (ii) eliminates the margin over rack discount option; (iii) adds new definitions and clarifies existing definitions, (iv) expands and clarifies the telephone application component; (v) incorporates the specific inclusions and exemptions for household income; (vi) adds depreciation and capital gains to self-employed income calculations; (vii) details the factors used to calculate benefits; (viii) further defines energy crisis, including specific fuel levels, and date parameters of the program; (ix) details how errors and program abuses may be reported; and (x) outlines the appeal process and the applicant's rights to an informal review or fair hearing.

PUBLIC COMMENT:

Process

MaineHousing held a public hearing on Tuesday, May 21, 2013 to receive testimony on its proposal to repeal and replace the Home Energy Assistance Program Rule.

Four people testified at the public hearing: Rick McCarthy representing the Maine Community Action Association; Jamie Py representing the Maine Energy Marketers Association; William Crandall, Housing Director for Western Maine Community Action; and Jack Comart representing Maine Equal Justice Partners.

MaineHousing held the comment period open until Friday, May 31, 2013. MaineHousing received written comments from: Maine Equal Justice Partners and the Maine Community Action Association.

Summary of Comments and Responses to Comments

General Comment: Rick McCarthy representing the Maine Community Action Association, Jamie Py representing the Maine Energy Marketers Association, William Crandall, Housing Director for Western Maine Community Action, and Jack Comart representing Maine Equal Justice Partners provided testimony during the public hearing in support of MaineHousing's efforts regarding LIHEAP. All appreciated the transparency of the Rule review process and indicated that both the staff and the process have been great.

Page 30 of 40, Vendors, E.

“E. Oil and kerosene Vendors must provide a Discount Off Retail.”

Comment: Jamie Py, representing the Maine Energy Marketers Association (MEMA), referred to Discount Off Retail as a “forced discount”. Mr. Py acknowledges that MaineHousing wants to get the best deal for clients and the state, but stated there is an administrative burden to oil and kerosene dealers related to the LIHEAP client population. Mr. Py asked that MaineHousing and MEMA look at options over the next several months that might be considered for Program Year 2015.

Response: Discount Off Retail will remain as written. Representatives of MaineHousing will meet with MEMA before December 2013 for this discussion.

Page 21 of 40, Central Heating Improvement Program, D. 2.

“D. 2. Rental Units Occupied By An Eligible Household: A life-time maximum benefit of \$300 for an Eligible Household.”

Comment: The Maine Community Action Association requested that \$300 be changed to \$500.

Response: MaineHousing recognizes this benefit as helping a tenant in need during a “no heat” emergency; however, MaineHousing believes \$300 is an acceptable amount as the landlord should be responsible for the majority of these expenses.

Page 23 of 40, Central Heating Improvement Program, J. 1.

“J. 1. Procurement over \$500.”

Comment: The Maine Community Action Association requested that \$500 be changed to \$800 to allow minor repairs to be made during a Cleaning, Tuning, and Evaluation outside of the formal procurement process.

Response: MaineHousing made this change. This also impacts page 23 of 40, I. and J.5.

Page 23 of 40, Central Heating Improvement Program, J. 1.a.2.

“J. 1.a.2. Receive price quotations or bids from at least three (3) reputable Contractors and document them on a survey sheet.”

Comment: The Maine Community Action Association requested that the Rule be changed from “receive” to “solicit” three bids.

Response: Bids are necessary to ensure lowest possible price thereby stretching the limited resources available for these programs. Bids promote competition and give subgrantees something to compare. As allowed currently, with appropriate substantiating documentation, subgrantees may contact MaineHousing with request to waive this requirement.

Page 2 of 40, Definitions, U.

“U. Dwelling Unit means...A Dwelling Unit does not include... any State or federally funded residential housing facility, including without limitation, group homes, homeless shelters, and residential care facilities.”

Comment: Maine Equal Justice Partners requested that MaineHousing clarify the requirements around State of federal funding of residential housing facilities.

Response: MaineHousing clarified that the exclusion pertains to residents in residential housing facilities that receive State or federal funds that result in below market rent or no rent by making the following edits:

U. “Dwelling Unit” means an occupied residential housing structure with one or more rooms that is used customarily as a domicile for one or more persons, when permanently connected to the required utilities (including plumbing, electricity and Heating Systems) and contains bathroom and kitchen facilities specific to that unit. A Dwelling Unit has its own private entrance from the outside or off an enclosed hallway leading from the outside that does not pass through or offer an open access to any other unit within the structure. A Dwelling Unit does not include a Camper, boat, railroad car, bus, yurt or other structure designed and constructed to provide temporary living quarters, or any State or federally funded residential housing facility, including without limitation, group homes, homeless shelters, and residential care facilities Subsidized Housing.

MMM. “Subsidized Housing” means Households whose rent is based on their income or the subsidy pays for any portion of their mortgage. Housing in which a tax credit or federal/state loan is applied to reduce debt burden on the property is not considered Subsidized Housing. A ***resident of a residential housing facility including without limitation group homes, homeless shelters, and residential care facilities***, or a Tenant who pays below market rent or no rent due to the landlord receiving a federal or state subsidy for rent is living in Subsidized Housing.

Page 6 of 40, Application, C.7.

“C.7. The Subgrantee may use the telephone Application process if a Primary Applicant was the Primary Applicant on an Eligible Household Application in the prior Program Year. This process includes completing the Application over the phone; the completed Application and other appropriate documents are then mailed to the Primary Applicant for review, signature, and date.”

Comment: Maine Equal Justice Partners “encourages MaineHousing to move toward a more convenient and less energy intensive way of taking applications” as failure to do so affects “virtually all cases”.

Response: There is ongoing discussion regarding the use of technology in the Application process. There is interest in pursuing and expanding the process; however, it is important to balance this with the program integrity efforts at the federal level. Until then, this replacement Rule expands the phone application component to allow a telephone Application process if a Primary Applicant was the Primary Applicant on an Eligible Household Application in the prior Program Year. This is the case in a significant number of cases.

Page 6 of 40, Application, C.10.a.

“C.10.a. Sign a release to permit the Maine Department of Health and Human Services, the Maine Department of Labor, and the Social Security Administration to share information with the Subgrantee or MaineHousing regarding information about the Applicant at each of those agencies, including the Benefits received from each of those agencies.”

Comment: Maine Equal Justice Partners suggests adding the words “relevant to the Application” after the first use of the word “information”.

Response: MaineHousing made this clarification.

Page 7 of 40, Application, E.2.

“E.2. In the case where an Applicant's eligibility is in question because of conflicting information received from a third party, the Subgrantee or MaineHousing shall allow the Primary Applicant an opportunity to amend the current Application only or reaffirm the information on it.”

Comment: Maine Equal Justice Partners suggests making it clear that a Primary Applicant may also withdraw Application.

Response: MaineHousing made the clarification by adding the following as a last sentence to E.2:

Primary Applicant may also withdraw Application at any time (prior to payment of Benefit). A new Application (rather than amended) would be required should Applicant pursue assistance after withdrawal.

Page 9 of 40, Eligibility, F.3.

“F.3. ...Roomers and Boarders cannot contribute to lessor's Household expenses.”

Comment: Maine Equal Justice Partners requested clarification on this sentence.

Response: MaineHousing clarified the Rule as follows:

...Roomers and Boarders *cannot comingle funds or share expenses with lessor's Household.*

Page 9 of 40, Eligibility, G.3.b.

“G.3.b. Self-employment income. Households with self-employment income must use a current year's tax return. If the Household has not filed a current year's tax return then the tax return for the previous year may be used. Self-employment income is defined as the total of net income (including net rental income) plus the total net gain from sales of capital goods or equipment plus depreciation.”

Comment: Maine Equal Justice Partners, as well as representatives from our subgrantees during separate discussion, noted that this section did not include an option if an Applicant was recently self-employed and therefore had never submitted a self-employed tax return.

Response: MaineHousing made the following clarification to the self-employed section:

Self-employment income. Households with self-employment income must use a current year's tax return. If the Household has not filed a current year's tax return then the tax return for the previous year may be used. ***If Applicant is recently self-employed and therefore has not yet submitted a self-employed tax return, the Applicant may complete a self-employed income statement/worksheet accounting for the last 365 days of income. Supporting documentation must be provided to substantiate the information on the statement/worksheet. If Household is using the three (3) month income verification period, self-employed income for the last 365 days will be prorated to three (3) months.*** Self-employment income is defined as the total of net income (including net rental income) plus the total net gain from sales of capital goods or equipment plus depreciation;

Page 10 of 40, Eligibility, G.3.m.

“G.3.m. Rental income, including funds received from Roomers and Boarders.”

Comment: Maine Equal Justice Partners asked if we mean “net” rental income.

Response: MaineHousing clarified the Rule by adding the word “net”.

Page 33 of 40, Errors and Program Abuse, paragraphs C and G.

“C. Once Errors and Program Abuse is confirmed or if an Applicant fails to respond to inquiries regarding suspected Errors and Program Abuse, an Overpayment will be calculated and communicated to the Applicant. MaineHousing will investigate the previous three (3) Program Years from the Date of Discovery. The Overpayment may include any or all of those three (3) years.”

“G. An Applicant may request a Fair Hearing to dispute an Overpayment. The Applicant must submit to MaineHousing a written request for a fair hearing no later than thirty (30) calendar days from the postmark date of the first notification from MaineHousing of suspected Errors and Program Abuse. All requests for fair hearing shall follow the Rule as set forth in Section 15.”

Comment: Maine Equal Justice Partners requested we include a comment in this section that an overpayment notice must include facts, reasoning, and fair hearing process.

Response: MaineHousing added the following clarifying language in C:

Once Errors and Program Abuse is confirmed or if an Applicant fails to respond to inquiries regarding suspected Errors and Program Abuse, an Overpayment will be calculated and communicated to the Applicant. ***In addition to the Overpayment, the communication will include: 1) the facts surrounding the decision, 2) the reason for the decision, and 3) the manner by which the Applicant can request an appeal.*** MaineHousing will investigate the previous three (3) Program Years from the Date of Discovery. The Overpayment may include any or all of those three (3) years.

Page 33 of 40, Appeal

Comment: Maine Equal Justice Partners suggests that, as written, this section is confusing and could cause an Applicant to forgo the right to a fair hearing simply by requesting an informal review.

Response: MaineHousing clarified that a fair hearing may be requested in all circumstances other than math/calculation errors and incomplete documentation situations.

STATUTORY AUTHORITY: 30-A M.R.S.A. §§4722(1)(W), 4741(15), and 4991 et seq.; 42 U.S.C.A. §§8621, et seq.

FISCAL IMPACT NOTE: The HEAP Rule will not impose any cost on municipalities or counties for implementation or compliance.

EFFECTIVE DATE: