

OFFICE OF COMMUNITY SERVICES

An Office of the Administration for Children & Families

LIHEAP IM HHS Guidance on the Use of Social Security Numbers (SSNs) and Citizenship Status Verification

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Audience: Low Income Home Energy Assistance Program (LIHEAP)

Category: Guidance, Policies, Procedures, Information Memorandums (IM)

Low Income Home Energy Assistance	U.S. Department of Health and Human Services Administration for Children and Families Office of Community Services Division of Energy Assistance 370 L'Enfant Promenade, S.W. Washington, D.C. 20447
Information Memorandum	https://www.acf.hhs.gov/programs/ocs/liheap

TO: LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP) GRANTEEES AND OTHER INTERESTED PARTIES

ACTION INTENDED FOR: STATES

TRIBES/TRIBAL ORGANIZATIONS

TERRITORIES

SUBJECT: HHS Guidance on the Use of Social Security Numbers (SSNs) and Citizenship Status Verification for Assistance by LIHEAP Grantees' Programs

RELATED: The Low Income Home Energy Assistance Act (42 U.S.C. § 8621 *et seq.*);

REFERENCES: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. 104-193); DOJ Interim Guidance on Verification of Citizenship, Qualified Alien Status, and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (**62 FR 61344-61416** (<http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf>)) (attached); LIHEAP IM 2010-06, dated May 5, 2010 entitled, "States are Encouraged to Require Social Security Numbers in Determining Eligibility".

PURPOSE: The two main purposes in issuing this guidance are to strongly encourage grantee to:

- 1) Ensure that grantee policies and procedures do not discourage, delay or deny enrollment of eligible persons, including eligible children residing with ineligible non-citizens; and
- 2) Remove access barriers by structuring enrollment procedures to allow non-applicants to declare early in the process whether they are seeking benefits only on behalf of eligible household members.

BACKGROUND: In order to deter fraud and prevent improper payments to ineligible individuals, HHS issued guidance, through LIHEAP-IM-2010-06 published on May 5, 2010, that strongly encouraged LIHEAP grantees to exercise discretion in requiring Social Security Numbers (SSNs) from applicants and all eligible household members as a condition of LIHEAP eligibility. HHS developed this guidance after a thorough analysis of the laws and policies that apply to LIHEAP in response to Executive Order 13520 (**74 FR 62201-62205**) (<http://www.gpo.gov/fdsys/pkg/FR-2009-11-25/pdf/E9-28493.pdf>). As a result, HHS revised previous guidance on grantees' authority to require SSNs; however, HHS remains bound by the Privacy Act and cannot compel grantees to require SSNs as a condition of eligibility for LIHEAP.

CONTENT: Since the publication of ACF's guidance on the use of SSNs, several issues have emerged among LIHEAP grantees that require ACF to issue additional guidance to assist grantees in establishing appropriate procedures for using SSNs to verify identity. Grantees have also identified special situations and problems that have arisen when determining LIHEAP eligibility and providing benefits to "qualified alien" households and those households with a mix of eligible and ineligible members.

In preparing this IM, we reviewed previous guidance issued by HHS on these topics, as well as other applicable Federal policies and guidance. In particular, we examined the policy guidance published by the HHS Office of Civil Rights (OCR) regarding Title VI of the Civil Rights Act of 1964 (42 U.S.C.

§ 2000d *et seq.*) and the treatment of citizenship, immigration status and SSNs by grantees in programs such as TANF, SNAP, Medicaid and the Children's Health Insurance Program (CHIP).

With this IM, we are seeking to provide clarity to LIHEAP grantees on using SSNs to verify identity, determining citizenship status, and ensuring that LIHEAP assistance is provided only to eligible household members while not unnecessarily chilling applications from eligible household members. This guidance responds to the most commonly asked questions that have been posed to ACF on this subject, including: denying LIHEAP assistance, SSNs, citizenship status verification, and LIHEAP assistance for non-citizens.

The "applicant" does not need to be an eligible member of the household, but should be of legal age to apply on behalf of those members of the household who are eligible. Accordingly, an applicant can either be an eligible applicant, *i.e.*, one who may be eligible to receive LIHEAP benefits, or an ineligible applicant, *i.e.*, one who is not eligible to receive LIHEAP benefits but is applying on behalf of eligible household members. We recommend that the application have a section that distinguishes between eligible household members who are seeking assistance and ineligible members who are included strictly for purposes of determining income eligibility only.

As well, grantee application procedures should not deter eligible applicants who may reside in households with ineligible individuals from applying for assistance. Grantees must exclude the ineligible household members from the total number of household members when calculating the LIHEAP benefit amount, and count the income of ineligible members of the household when determining the total household's income eligibility. We strongly encourage that this be done utilizing policies and practices that do not deter eligible household members from applying for or receiving assistance.

TREATMENT OF MIXED STATUS HOUSEHOLDS

Q1: Who is considered an "eligible household member" under the LIHEAP program?

A1: An eligible household member is any individual who is a U.S. citizen or "qualified alien" and is a member of a household that meets the eligibility requirements specified in Section 2605(b)(2) of the Low Income Home Energy Assistance Act (42 U.S.C. § 8624(b)(2)). A "qualified alien" is defined at 8 U.S.C. § 1641(b).

Q2: If a household is comprised of eligible and ineligible members, can LIHEAP assistance be provided to the eligible members?

A2: Yes, Grantees are encouraged to provide LIHEAP assistance to eligible household members, and not to deny benefits solely due to the presence of one or more ineligible household members.

Q3: Should the income of the household members who are deemed ineligible be considered when determining the LIHEAP benefit amount?

A3: The income of all household members—regardless of eligibility— must be documented, verified, and included in the calculation of the LIHEAP benefit amount.

Section 2603(5) of the LIHEAP Act (42 U.S.C. §8622(5)) defines "household" as: "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."

Unless individual members of the household can demonstrate that they purchase energy independently, *e.g.*, by signing individual leases, there is no authority to exclude their income.

Q4: When setting the benefit level for a "mixed" household of eligible and ineligible members, should the ineligible members be included in the total household size?

A4: Ineligible household members must be excluded from the total household count when setting the benefit. In doing so, only eligible household members should be included in the total household count. We encourage grantees to provide those households with a mix of eligible and ineligible members with a pro-rated LIHEAP benefit to assist only the eligible household members.

Social Security Numbers

Q5: May an adult apply and provide supporting eligibility information on behalf of other household members?

A5: Yes. An adult may apply and provide the SSN and supporting documentation on behalf of other household members.

Q6: What if the applicant or household members do not have SSNs?

A6: This depends on what the grantee's policy is regarding SSNs. If the grantee's law or policies require SSNs, then individuals that do not have SSNs may be considered ineligible by the grantee. It is strongly encouraged, however, that grantees (a) assist such individuals with obtaining SSNs and the necessary documentation; and (b) avoid delaying or denying LIHEAP assistance to those household members pending such information if the individuals are otherwise eligible to receive LIHEAP benefits.

Q7: What if the applicant or household member refuses to furnish an SSN?

A7: If a household member has an SSN and **refuses** to furnish his/her SSN—and the grantee's policies require an SSN—then the grantee can treat the individual as ineligible and the LIHEAP benefit amount should be reduced on a pro rata basis to account for the number of eligible household members seeking assistance who refused to comply with the SSN requirement.

Q8: *Are non-profit charitable organizations that administer LIHEAP benefits required to verify eligibility, such as by checking SSNs?*

A8: Section 432(d) of PRWORA provides that “a nonprofit charitable organization, in providing any Federal public benefit...or any State or local public benefit...is not required under this chapter to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.” (8 U.S.C. § 1642(d)). This does not, however, relieve the grantee from its responsibility to assure that program eligibility is determined and verified, including proof of “qualified alien” status.

Citizenship STATUS Verification

Q9: *Do grantees have flexibility in developing their own policies and procedures for verification of citizenship or immigration status for LIHEAP benefits?*

A9: Grantees have flexibility under the block grant structure of LIHEAP to establish procedures for verifying an applicant's U.S. citizenship and immigration status when determining eligibility for LIHEAP services; however, their procedures should be in general accordance with the U.S. Department of Justice (DOJ) interim guidance on verification of citizenship (**62 FR 61344-61416** (<http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf>)). The interim guidance outlines procedures by which a State or local government can verify whether an individual applying for a State or local public benefit is a “qualified alien” or U.S. citizen.

The DOJ Interim Guidance provides:

The appropriate method of verifying an applicant's citizenship will depend upon the requirements and needs of the particular program, including, but not limited to, the nature of the benefits to be provided, the need for benefits to be provided on an expedited basis, the length of time during which benefits will be provided, the cost of providing the benefits, the length of time it will take to verify based on a particular method, and the cost of a particular method of verification. For example, a benefit provider [grantee] could adopt a quick and simple verification procedure if it provides short-term benefits and the cost of extensive verification will outweigh the cost of the benefits or if verification will be time-consuming and the benefits are needed in the short term.

(62 FR 61347).

Grantees should consider how to apply their verification procedures with respect to the various services they provide under LIHEAP. For instance, a grantee might decide to implement “a quick and simple verification procedure” when providing crisis assistance as opposed to other types of LIHEAP assistance.

Q10: *What kinds of documentation can a grantee legally ask for to verify citizenship status in lieu of a social security number?*

A10: See Attachment 4 of the DOJ Interim Guidance for a description of documentation for which grantees may legally ask to verify citizenship status as well as other valuable information which may be useful to grantees in fulfilling PRWORA's citizenship status requirements. Attachment 5 lists the documentation that grantees may accept from “qualified aliens.” The guidance is available at: <http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf> (<http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf>)

Reminders

Please note that the guidance provided in this IM pertains specifically to **LIHEAP only**, and is **not** intended to be an overall legal interpretation or blanket policy for any other Federal program.

Also, various Federal civil rights laws and regulations prohibit discrimination in certain areas by governmental and private entities on the basis of race, color, national origin, gender, religion, age, and disability. In operating a Federally-funded public assistance program such as LIHEAP, grantees must not directly or indirectly differentiate among individuals in the types of assistance the grantees provide or the manner in which they provide them based on these characteristics. Grantees must treat all similarly situated individuals in the same manner, and must not single out individuals based upon assumptions or stereotypes related to physical appearance, mannerisms, or any other characteristic presumed to be associated with immigrants.

RELATED

WEB LINKS: <http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf> (<http://www.gpo.gov/fdsys/pkg/FR-1997-11-17/pdf/97-29851.pdf>)

<https://www.acf.hhs.gov/programs/ocs/resource/fact-sheet-on-us-citize...> (<https://www.acf.hhs.gov/programs/ocs/resource/fact-sheet-on-us-citizenship-requirements>)

<https://www.acf.hhs.gov/programs/ocs/resource/interpretation-of-feder...>
(<https://www.acf.hhs.gov/programs/ocs/resource/interpretation-of-federal-benefits-revised>)

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<https://www.acf.hhs.gov/programs/ocs/resource/guidance-on-federal-mea...>

(<https://www.acf.hhs.gov/programs/ocs/resource/guidance-on-federal-means-tested-public-benefits>)

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