



**MONTANA  
ADMINISTRATIVE  
REGISTER**



**DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES**

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**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2026-532.1**

**Summary**

Amendment of ARM 37.70.311, 37.70.401, 37.70.402, 37.70.406, 37.70.407, 37.70.408, 37.70.601, 37.70.602, 37.70.607, and 37.70.608 pertaining to Low Income Home Energy Assistance Program (LIHEAP)

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**Hearing Date and Time**

Friday, February 27, 2026, at 10:00 a.m.

**Virtual Hearing Information**

Join Zoom Meeting: <https://mt-gov.zoom.us/j/85206726321?pwd=fUObpkRnSLFmaWtk79bLA1b5pLob88.1>

Meeting ID: 852 0672 6321 and Password: 336975

Dial by Telephone: +1 646 558 8656

Meeting ID: 852 0672 6321 and Password: 336975

Find your local number: <https://mt-gov.zoom.us/j/85206726321?pwd=fUObpkRnSLFmaWtk79bLA1b5pLob88.1>

**Comments**

Comments may be submitted using the contact information below. Comments must be received by Friday, March 6, 2026, at 5:00 p.m.

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## Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, February 13, 2026, at 5:00 p.m.

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## Contact

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## Rulemaking Actions

### AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

#### **37.70.311 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS AND VERIFIABLE ELIGIBILITY REQUIREMENTS**

- (1) The procedures for determining eligibility for LIHEAP benefits are as follows:
  - (a) The household files an application together with verification for determining financial eligibility and benefit award.
  - (b) After an application is filed, the local contractor may request any additional information or documentation needed to determine the household's eligibility, benefit amount, or both.
  - (c) If a household fails to provide information or documentation necessary for a determination of eligibility within ~~45~~30 days of the date of the most recent request for additional information, the application will be denied.
  - (d) If an application is denied, the household may reapply for assistance.
- (2) Eligibility requirements that must be verified include a social security number (SSN) for each household member and proof of U.S. citizenship, or proof of status as a qualified alien as defined in 8 U.S.C. § 1641(b). Other eligibility requirements that may be verified include:
  - (a) photo identification for each household member 18 years or older may be required if the SSN has not been verified;

- (b) for members under age 18, a birth certificate will be accepted if the SSN has not been verified;
  - (c) current receipt of benefits under the Supplemental Nutrition Assistance Program (SNAP), supplemental security income, or cash assistance funded by temporary assistance for needy families (TANF);
  - (d) household income and resources;
  - ~~(e) proof of lack of tax dependency status for household members enrolled at least half time in an institution of higher education;~~
  - ~~(f)~~(e) proof of the household's obligation to pay for the cost of heating its residence and type of primary heating fuel for the household's residence; and
  - ~~(g)~~(f) receipts to support paid eligible energy costs when a household seeks direct reimbursement for paid eligible energy costs as provided in ARM 37.70.607. Failure to provide receipts to the local contractor by June 20 or the end of the heating season, whichever is later, will result in forfeiture of any remaining benefits for that heating season.
- (3) If the local contractor reasonably doubts the accuracy of information provided by the household, then the type of dwelling, number of bedrooms, primary heating fuel, and primary fuel vendor must also be verified.
  - (4) The local contractor may conduct an interview with household members in person or by telephone, if necessary, to determine eligibility. In cases where the local contractor considers an interview to be necessary and neither the local contractor's office nor a telephone is reasonably accessible to the household, the local contractor will conduct the interview at some place which is reasonably convenient for the household and the local contractor.
  - (5) After a household's eligibility and benefit amount have been determined by the local contractor, notice of the decision will be given to the household as provided in ARM 37.70.312.
  - (6) A household's eligibility and benefit amount will be determined based on the household's circumstances regarding the following on the date the application is filed:
    - (a) household income level;
    - (b) the household's dwelling type;
    - (c) the number of bedrooms in the dwelling;
    - (d) the dwelling's primary heating fuel;
    - (e) the heating district in which the dwelling is located;

- (f) verification of the identities and citizenship or qualified alien status of those residing in the household; ~~and~~
  - (g) the household's resources; and
  - (h) the percent of poverty based on the number of people in the household and total household income.
- (7) Eligibility regarding income is based on the household's income for one month immediately preceding the month of application, which will be annualized ~~by multiplying that figure by 12 to arrive at the household's annual income~~ using the Combined Healthcare Information and Montana Eligibility System (CHIMES).
  - (8) The household has the burden of proving that it meets all requirements for eligibility.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.401 DEFINITIONS**

- (1) "Annual gross income" means all nonexcluded income including wages, salaries, commissions, tips, profits, ~~gifts,~~ interest or dividends, retirement pay, workers' compensation, unemployment compensation, social security retirement and disability payments, supplemental security income payments, veterans administration payments, cash public assistance benefits such as temporary assistance for needy families or tribal, state, or county general relief, and capital gains received by the members of the household for one month immediately preceding the month of application. ~~Annual gross income which will be calculated annualized by multiplying that figure by 12~~ through the Combined Healthcare Information and Montana Eligibility System (CHIMES).
  - (a) For households with self-employment income, annual gross income means gross receipts for ~~one month~~ 12 months immediately preceding the month of application minus self-employment deductions for the same time period, which will be annualized ~~by multiplying that figure by 12.~~
- (2) "Applicant" means a person 18 years or older or an emancipated minor, applying for LIHEAP benefits for all eligible household members in the household at the time of application. The applicant does not need to be an eligible member of the household.

- (3) "Base-load electric" costs are the costs represented in a utility company's bill for electricity that powers lights, plug-in appliances, and domestic water heating.
- (4) "Child" means a person who is under age 18 and not emancipated.
- (5) "Deliverable heating fuel" means heating fuel that can be delivered to the customer and stored for later use, for example: propane, fuel oil, kerosene, wood, or coal.
- (6) "Disabled individual household" means a household in which at least one person who has been determined disabled based on the criteria for disability provided in Title II or Title XVI of the Social Security Act resides.
- (7) "Elderly" means a person who is 60 years or older.
- (8) "Eligible energy costs" means costs of the various types of energy supplied by the household's fuel vendors. Energy delivered by the household's fuel vendors prior to October 1 is ineligible for payment in the current heating season, except in the sole discretion of the department. Deliverable heating fuel charges incurred from July 1 through April 30 are eligible for payment in the current heating season. Eligible energy costs include tank rental and replacing valves on portable propane tanks, off-route fees (for example, when a vendor goes off a normal route to get propane to a client), and re-light fees, but not deposits or fuel tank set up costs.
- (9) "Eligible household member" is any person who is a U.S. citizen or qualified alien and is a member of a household that meets the LIHEAP eligibility requirements.
- (10) "Emancipated minor" is any person under the age of 18 who has been released from parental care or custody, and granted legal rights and responsibilities as provided in 41-1-401 or 41-1-503, MCA, or by order of a court having jurisdiction.
- (11) "Federal fiscal year (FFY)" means the period from October 1 of one calendar year through September 30 of the next calendar year. For example, federal fiscal year ~~2023~~ 2026 means the period from October 1, ~~2022~~ 2025, through September 30, ~~2023~~ 2026.
- (12) "Gross receipts" applies to households with income from self-employment and means all income before any deductions, including any nonexcluded income not from self-employment, which was received by members of the household ~~one full month~~ for 12 months immediately preceding the month of application. Annual net self-employment income may also be calculated based on federal income tax return for the calendar year immediately preceding the calendar year in which the application is filed.
- (13) "Heating season" means the period from October 1 to April 30. For example, the ~~2022 through 2023~~ 2025 heating season ~~is~~ means the period from October 1, ~~2022~~ 2025, through April 30, ~~2023~~ 2026. The department may, in its sole discretion, extend the heating season beyond April 30. If the heating season is extended beyond April 30, LIHEAP benefits may be applied against energy costs incurred in

the additional months of the heating season, but no applications for benefits may be filed after April 30 except as provided in ARM 37.70.305. If the department extends the end of the heating season beyond April 30, the department will notify the local contractor of the final date for reimbursement requests. ~~requests for reimbursement must be received by the local contractor no later than June 20 or the end of the heating season, whichever is later.~~

(14) "Household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased together or who make undesignated payments for energy in the form of rent.

(a) Any foster child or foster adult who lives in the household at the time of application and for whom foster care payments are being made may be either included or excluded from the household. This option must be exercised by the household at the time of application and cannot be changed until a new application for the next heating season is made.

(b) An unborn child may not be counted as a member of the household.

(15) "Income averaging" is the process by which CHIMES calculates income. Income will be averaged either:

(a) Bimonthly, or twice monthly, meaning an individual is always paid two times per month, usually on set dates such as the 1st or 15th of each month (resulting in 24 paychecks per year); or

(b) Biweekly, meaning an individual is paid every other week throughout the year (resulting in 26 paychecks per year).

~~(15)~~(16) "Incurment" means that portion of a medically needy person's income that exceeds the medically needy income standard for the size of the household.

~~(16)~~(17) "Ineligible household member" is a person who is not a U.S. citizen or qualified alien who is a member of a household that meets the LIHEAP eligibility requirements. An ineligible household member of legal age may apply for LIHEAP benefits on behalf of eligible household members.

~~(17)~~(18) "In-kind income" means goods, services, or other nonmonetary benefits, including meals, clothing, housing, or produce.

~~(18)~~(19) "Institution of higher education" means a college, university, or vocational or technical school at the post-high school level.

~~(19)~~(20) "Licensed group-living situation" means a facility that is licensed by the department and in which housing is provided in a home-like setting on a long term or permanent basis to individuals or households, including community homes for persons with developmental disabilities licensed under 53-20-305, MCA. It does not include community homes for persons with severe physical disabilities licensed under 52-4-203, MCA, or youth care facilities licensed under 52-2-622, MCA,

shelters for homeless or abused individuals, halfway houses, nursing homes or convalescent centers, or other residential treatment facilities which provide shelter in an institutional setting.

~~(20)~~(21) "Life-threatening" means conditions are present that may cause death or severe permanent damage to the health of one or more household members. Such conditions include: any of the conditions of emergency specified in ARM 37.70.901 that may cause death or severe permanent damage to the health of one or more household members.

(a) Household is without primary heat source of electric or natural gas service, or has less than 10% of a deliverable fuel (propane, wood, coal, fuel oil) and:

(i) has no secondary or alternate heat source; and

(ii) the outside temperature is below 32°F.

(b) Household whose members' health and/or well-being would likely be endangered without the availability of their primary heat source or emergency cooling assistance. This condition may include those who suffer severe adverse effects from extreme temperature changes or exposure to extreme temperatures due to medical condition.

(c) Additional special circumstances that are considered on a case-by-case basis by LIHEAP specialists at sub-contracting local agencies.

~~(21)~~(22) "Local contractor" means a community-based organization with which the department has contracted to provide outreach and to receive and process applications for LIHEAP and the weatherization assistance program.

~~(22)~~(23) "Medically needy" means a person or family otherwise eligible for Montana Medicaid (medical assistance) but whose income exceeds medically needy income levels. A medically needy household may or may not have an incurment.

~~(23)~~(24) "Member receiving supplemental security income (SSI), or temporary assistance for needy families (TANF)-funded cash assistance" means any member of a household whose needs are included in the SSI, TANF-funded cash assistance, or any person whose income and resources are considered in determining eligibility for those programs.

~~(24)~~(25) "Mobile home" means a singlewide or doublewide trailer, mobile home, or manufactured home.

~~(25)~~(26) "Modified LIHEAP benefit" means the amount paid to eligible households who reside in publicly subsidized housing and whose energy costs are included as a fixed portion of their rent or who have an obligation to pay a base-load electric bill. The modified LIHEAP benefit is equal to five percent of the amount of a regular LIHEAP benefit computed using the benefit matrices and multipliers in the LIHEAP Benefit Award Matrix and Table of Multipliers for the current heating season or a minimum

payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the publicly subsidized housing modified LIHEAP benefit, whose economic and housing situation does not change, are income eligible for a period of five years.

~~(26)~~(27) "Monthly gross income" means all nonexcluded income, including wages, salaries, commissions, tips, profits, ~~gifts~~, interest or dividends, retirement pay, workers' compensation, unemployment compensation, social security retirement and disability payments, supplemental security income payments, veterans administration payments, cash public assistance benefits such as TANF or tribal, state, or county general relief, and capital gains, received by the members of the household in a calendar month.

(a) For households with self-employment income, monthly gross income means monthly gross receipts minus self-employment deductions.

~~(27)~~(28) "Monthly gross receipts" applies to households with income from self-employment and means all income before any deductions, including any nonexcluded income not from self-employment, received by members of the household in a calendar month.

~~(28)~~(29) "Multi-family unit" means a building which contains two or more shelter or rental units for living purposes. For purposes of the program, a duplex and a home with a basement apartment are considered multi-family units.

~~(29)~~(30) "Nonrecurring lump sum payment" means a sum of money paid at one time rather than in two or more separate payments.

~~(30)~~(31) "Nontraditional dwelling unit" means dwelling units that include mobile shelters and other structures not designed for year-round human habitation. ~~Mobile shelters include RVs and campers.~~ A nontraditional dwelling unit includes recreational vehicles (RVs), campers, and other structures such as storage sheds, garages, yurts, utility trailers, storage containers, and railroad cars.

~~(31)~~(32) "Paid eligible energy costs" means heating costs paid:

- (a) in the form of rent;
- (b) to a fuel account not in a household member's name; or
- (c) to another party during the heating season for the dwelling in which the household resides at the time of application.

~~(32)~~(33) "Publicly subsidized housing" means government-sponsored economic assistance aimed towards providing affordable housing for persons in need.

~~(33)~~(34) "Qualified alien" means an alien who, at the time of submitting a LIHEAP application, is a qualified alien as defined by 8 U.S.C. § 1641(b).



~~(34)~~(35) "Self-employment deductions" means all costs, excluding depreciation costs, necessary for the creation of any income from self-employment. As an alternative, the local contractor may, at the request of the household, deduct 40 percent from the annual gross receipts for self-employment deductions.

~~(35)~~(36) "Shelters" mean a dwelling unit or units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another, including homeless people, people living in student housing, or other individuals seeking short-term or nonpermanent living situations.

~~(36)~~(37) "Single elderly household" means a household consisting of one person only, who is 60 years or older.

~~(37)~~(38) "Single family unit" means a building which contains a single residence or rental unit for living purposes.

~~(38)~~(39) "State fiscal year" means the period from July 1 of one calendar year through June 30 of the next calendar year. For example, state fiscal year ~~2023~~ 2026 means the period from July 1, ~~2022~~ 2025, through June 30, ~~2023~~ 2026.

~~(39)~~(40) "Traditional dwelling unit" means a residential housing structure, including a mobile home or a modular home when permanently connected to the required utilities (including plumbing, heating, and electrical systems contained therein) and designed to be used as a permanent residence.

~~(40)~~(41) "U.S. Department of Health and Human Services Poverty Guidelines" means the poverty guidelines computed annually and published each year in the Federal Register by the U.S. Department of Health and Human Services.

~~(41)~~(42) "Valid loan" means a person's lawful promise to repay a monetary sum received from a source outside the household, including private individuals and commercial institutions, which must be repaid at a future date. Unless otherwise provided in law, the loan may be oral or written.

~~(42)~~(43) "Vendor payment" means a monetary payment made on behalf of the household by a person who is not a member of the household to a third party outside the household such as a creditor of the household or vendor of services or goods to the household.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.402 GENERAL ELIGIBILITY REQUIREMENTS, ELIGIBILITY REQUIREMENTS FOR CERTAIN TYPES OF INDIVIDUALS AND HOUSEHOLDS**

- (1) Households that are obligated to pay for fuel to heat their homes are eligible for LIHEAP benefits.
- (2) Except as provided elsewhere in this rule, households which consist solely of members who are eligible for and receiving SNAP, SSI, or TANF-funded cash assistance are automatically financially eligible for LIHEAP benefits.
- (3) Households which consist of members receiving SNAP, SSI, or TANF-funded cash assistance, and other individuals whose income and resources were not considered in determining eligibility for SNAP, SSI, or TANF-funded cash assistance are not automatically eligible for LIHEAP benefits but must meet the financial requirements set forth in this rule.
- (4) Individuals living in shelters, including recipients of SNAP, SSI, or TANF-funded cash assistance, are not eligible for LIHEAP benefits. Individuals living in licensed group-living situations as defined in ARM 37.70.401 may be eligible if they meet all other requirements for eligibility. Individuals living in licensed group-living situations which are not group-living situations as defined in ARM 37.70.401 are not eligible for LIHEAP benefits.
- ~~(5) Households which contain a member who is enrolled at least half time in an institution of higher education and who was claimed for the previous tax year as a dependent for federal income tax purposes by a taxpayer who is not a member of a household are ineligible for LIHEAP benefits.~~
- ~~(6)~~(5) Households that are eligible for or that have received LIHEAP benefits through a tribal program funded by the U.S. Department of Health and Human Services may not receive LIHEAP benefits from the department for the same heating season, unless the household changes residence during the heating season and the household is no longer eligible for tribal LIHEAP benefits; in that case, the household may apply for a prorated LIHEAP benefit based on the household's new circumstances as provided in ARM 37.70.602.
- ~~(7)~~(6) Residents of publicly subsidized housing whose energy costs are included as a fixed portion of their rent or who reside in publicly subsidized housing and have an obligation to pay a base-load electric bill are not eligible for a regular LIHEAP benefit computed using the benefit matrices and multipliers in the LIHEAP Benefit Award Matrix and Table of Multipliers for the current heating season. However, these households are eligible for weatherization assistance as provided for in ARM Title 37, chapter 71 and a modified LIHEAP benefit. The modified LIHEAP benefit is equal to five percent of the amount of a regular LIHEAP benefit, or a minimum payment of \$25, whichever is greater, paid to the household annually. Households determined eligible for the modified LIHEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

~~(8)~~(7) In households consisting of eligible and ineligible household members, the income of all will be counted for benefit calculation purposes. Only the eligible household members will be counted when counting the number of household members for benefit calculation purposes.

~~(9)~~(8) Current and future benefits will be denied to any persons and households who refuse to submit social security numbers or proof of U.S. citizenship or proof of status as a qualified alien as defined in 8 U.S.C. § 1641(b), or whose social security numbers, proof of residency, or citizenship cannot be verified.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.406 INCOME STANDARDS**

- (1) Households with up to eight members with annual gross income at or below 60 percent of the estimated state median are eligible for LIHEAP benefits on the basis of income. Households with nine or more members are eligible for LIHEAP benefits on the basis of income only if the household's annual gross income is at or below 150 percent of the ~~2022~~ U.S. Department of Health and Human Services' poverty guidelines for a household of that size. Households with annual gross income above the applicable income standard are ineligible for LIHEAP benefits, unless the household is automatically financially eligible for LIHEAP benefits as provided in ARM 37.70.402 because all members of the household are receiving SNAP, SSI, or TANF-funded cash assistance.
- (2) The department adopts and incorporates by reference the department's Low Income Home Energy Assistance Program (LIHEAP) Table of Income Standards, ~~2022-2023~~ 2025-2026 heating season. The LIHEAP table of income standards is located at the department's web site at <https://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, P.O. Box 202956, Helena, MT 59620-2956.
- (3) Households eligible for LIHEAP are also eligible for LIHEAP client education and outreach activities.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.407 EXCLUDED INCOME**

- (1) The following types of unearned income are excluded or deducted when calculating income for LIHEAP eligibility:
  - (a) complementary assistance from other agencies and organizations which consists of goods and services not included in or duplicated by the low income home energy assistance benefit award;
  - (b) home produce utilized for household consumption;
  - (c) undergraduate student loans and grants for educational purposes made or insured under any program administered by the Commissioner of Education;
  - (d) extension of Old-Age, Survivors, and Disability Insurance (OASDI) benefits for 18 to 22 year olds who are full-time students;
  - (e) the value of the SNAP allotment;
  - (f) the value of U.S. Department of Agriculture donated foods;
  - (g) any benefits received under Title III of the Nutrition Program for the Elderly of the Older Americans Act of 1965 as amended;
  - (h) the value of supplemental food assistance received under the Child Nutrition Act of 1966, and the Special Food Services Program for Children under the National School Lunch Act (P.L. 92-433 and P.L. 93-150);
  - (i) all monies awarded to Indian tribes by the Indian Claims Commission or Court of Claims as authorized by P.L. 92-254, 93-134, 94-540, 95-433, 97-408, or other applicable awards as provided in public law;
  - (j) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
  - (k) the tax-exempt portions of payments made pursuant to P.L. 92-203, the Alaska Native Claims Settlement Act;
  - (l) all payments under Title I of the Elementary and Secondary Education Act;
  - (m) all earnings, work incentive allowances, reimbursement of training related expenses, and other allowances and payments made to a participant in any program under the Workforce Investment Act of 1998;
  - (n) payment for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers serving as senior health aides, or senior companions, and to persons serving in service corps of the retired executives

and active corps of executives, and any other program under Titles II and III of P.L. 93-113;

- (o) payments to individual volunteers under Title I (VISTA) of P.L. 93-113, pursuant to section 404(g) of that law;
- (p) proceeds from sale of the family home if the household is living in the residence at the time of the sale;
- (q) one-time insurance payments, compensation for injury, or payments from federal or state crime victim compensation programs;
- (r) the entire amount of Veteran's Administration educational payments made to an applicant or recipient who is attending an institution of higher education, including amounts spent for expenses not directly related to the individual's school attendance;
- (s) Veteran's Administration pension reimbursements for medical expenses;
- (t) foster care payments received for a foster child or adult if the LIHEAP applicant has chosen to exclude the foster child or adult from the household; such payments are not excluded if the applicant has chosen to include the foster adult or child as a member of the household. Additionally, any foster care payments received one full month immediately preceding the month of application for a foster child or adult who is no longer living in the household at the time of application shall be excluded;
- (u) in-kind income;
- (v) valid loans, except that the funds received from valid loans are considered as a resource until the funds are spent;
- (w) monetary gifts, except that funds received as a gift are considered as a resource until the funds are spent; of up to \$50 per month per household member. If the gift is in an amount equal to or greater than \$50, however, the entire gift will be counted;
- (x) nonrecurring lump sum payments, such as federal and state income tax refunds, one-time insurance payments or worker's compensation payments, and retroactive SSI or SSDI payments, but only to the extent that the payment does not constitute income or benefits for one full month immediately preceding the month of application. The funds received from a nonrecurring lump sum payment are considered as a resource until the funds are spent;
- (y) vendor payments, except the following types of vendor payments:
  - (i) payments which are legally owed or otherwise payable to the household but are diverted by the provider of the payment to a third party for an expense or debt of the household;

- (ii) federal, state, or tribal benefits payable directly to the household but are diverted to a third party or protective payee for an expense or debt of the household; and
- (iii) rent or mortgage payments made to the household's landlord or mortgagee.
- (z) payments under Public Law 101-426, Radiation Exposure Compensation Act, are excluded as income and as a resource to the household;
- (aa) amounts paid to satisfy an incurment for the medically needy programs; and
- (bb) proof of out-of-pocket health insurance premiums paid by a member of the household for a household member or members will reduce the income when supplied at the time of application or prior to application eligibility determination.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.408 RESOURCES**

- (1) The following nonbusiness resources are counted in determining a household's eligibility:
  - (a) cash on hand;
  - (b) certificate of deposits;
  - (c) checking and savings accounts;
  - (d) market value of stocks or bonds and/or other negotiable resources; and
  - (e) the equity value of real property which is not the family home.
- (2) The equity value of the household's business assets is counted in determining eligibility. The household may have business assets the equity value of which does not exceed \$25,000.
- (3) The value of a primary residence and the proceeds from the sale of a primary residence are not included as a resource for 12 months from the date of sale.
- (4) The department adopts and incorporates by reference the department's LIHEAP Table of Resource Standards, for the ~~2022-2023~~ 2025-2026 heating season. The LIHEAP table of resource standards is located at

<https://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, P.O. Box 202956, Helena, MT 59620-2956.

- (5) The dollar limitations on nonbusiness resources listed elsewhere in this rule will be adjusted annually by the department on July 1 by increasing each limitation by an amount equal to the limitation amount for the previous year, multiplied by the lesser of:
  - (a) the percentage increase in the consumer price index, all items, United States city average, for the most recent calendar year completed before the beginning of the year for which the determination is being made; or
  - (b) five percent.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.601 BENEFIT AWARD**

- (1) The department adopts and incorporates by reference the department's LIHEAP Benefit Award Matrix and Table of Multipliers, for the ~~2022-2023~~ 2025-2026 heating season. The LIHEAP Benefit Award Matrix is located at <https://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, ~~Intergovernmental Human Services Bureau~~, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620. These matrices are used to establish the benefit payable to an eligible household for a full heating season. The ~~2021-2022 benefit matrix will be used for the 2021-2022 heating season, and the 2022-2023~~ 2025-2026 benefit matrix will be used for the ~~2022-2023~~ 2025-2026 heating season. The benefit varies by:
  - (a) household income level;
  - (b) type of primary heating fuel;
  - (c) the type of dwelling: single family unit, multi-family unit, nontraditional dwelling unit, and mobile home;
  - (d) the number of bedrooms in the dwelling;
  - (e) the heating district in which the household is located, to account for climatic differences across the state;

- (f) verification of the identities and citizenship or qualified alien status of those residing in the household; and
  - (g) the household's resources.
- (2) The benefit payable to an eligible household will be computed by multiplying the applicable amount in the table of base benefit levels found in the LIHEAP Benefit Award Matrix by the applicable matrix amount in the table of income/climatic adjustment multipliers found in the LIHEAP Benefit Award Matrix.
  - (3) Publicly subsidized households whose energy costs are included as a fixed portion of their rent, or who reside in publicly subsidized housing and have an out-of-pocket obligation to pay a base-load electric bill, are not eligible for a regular LIHEAP benefit computed using the benefit matrices and multipliers in the LIHEAP Benefit Award Matrix and Table of Multipliers. However, these households may be eligible for a modified LIHEAP benefit. The modified LIHEAP benefit is equal to five percent of the regular LIHEAP benefit computed using the benefit matrices and multipliers in the LIHEAP Benefit Award Matrix and Table of Multipliers, or a minimum payment of \$25, whichever is greater, paid annually. Households determined eligible for the modified LIHEAP benefit whose economic and housing situation does not change are eligible for a period of five years.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.602 BENEFIT AWARDS: MISCELLANEOUS**

- (1) Households found eligible may apply all or a portion of their benefit award for conversion (or fuel switch) to a less costly heating fuel, as determined by the department.
- (2) Eligible households who convert to a less costly heating fuel must disclaim any right to additional program benefits for the current heating season regardless of change of address or any other circumstance except emergencies as defined in ARM 37.70.901.
- (3) When an eligible household changes residence during the heating season, the household must file a new application. The household's benefit award will then be recomputed based on its new residence, and the new benefit will be prorated from the date ~~of the change of~~ the applicant becomes responsible for the heat costs at the new residence. Any unused portion of the original benefit award reverts to the department. When an eligible household changes its type of primary heating fuel



during the heating season, the household is not required to file a new application but must have its benefit award recomputed based on the new type of fuel. The new benefit will be prorated from the date of the change of type of fuel. Any unused portion of the original benefit reverts to the department.

- (4) Benefit awards will be prorated for households new to the state or not previously responsible for heating costs from the date of residency or responsibility for the remainder of the heating season. Benefits will also be prorated for households who live in an area served by tribal LIHEAP if the household moves from the service area during the heating season and applies for benefits through Montana LIHEAP. Such households are eligible for a prorated benefit for the remainder of the heating season from the date the household moved from the service area served by the tribal LIHEAP.
- (5) When a household changes primary fuel vendors, any remaining LIHEAP attributable credit balance will be returned to the department by the original fuel vendor. The department may reissue the unused portion of the benefit award to the new fuel vendor or reimburse the household as provided in ARM 37.70.607.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.607 AMOUNT AND METHOD OF PAYMENT**

- (1) Eligible households directly billed for energy costs by the fuel vendor will be paid a benefit amount computed using the benefit matrices and multipliers in the Low Income Home Energy Assistance Program (LIHEAP) Benefit Award Matrix and Table of Multipliers and will be paid as follows:
  - (a) Reimbursement may, at the discretion of the department only, be made by check payable to the household for any eligible energy costs which have been paid by the household at the time of the benefit or adjusted award. Paid eligible energy costs claimed by the household must be supported by fuel receipts.
  - (b) The amount of the benefit or adjusted award remaining after the application of (1)(a) will be paid by check directly to the fuel vendor and will be applied by the fuel vendor against any unpaid, including any future, eligible energy costs of the household in accordance with the department-provided vendor application and contract. Any credit balance in excess of \$250.50 attributable to the benefit or adjusted award after the end of the heating season must be returned to the department. ~~For the 2021-2022 and 2022-2023 heating~~

~~seasons only, any LIHEAP attributable credit balance in excess of \$500 must be returned to the department no later than August 31, 2023.~~

- (c) Application for benefits for the current heating season will not be processed until the credit balances for each of the household's fuel vendors attributable to previous years' program awards total \$250 ~~50~~ or less. This does not apply if the department has extended the heating season and has allowed LIHEAP attributable credit balances to remain on the recipients' accounts until spent.
  - (d) All credit balances are presumed to be from previous program awards unless the household provides proof to the contrary.
- (2) Eligible households that pay energy costs for heating their homes that are not billed directly by the fuel vendor because the fuel account is not in the name of a household member will be reimbursed for eligible energy costs paid by the household, provided that the amount paid to the household for the heating season does not exceed the benefit amount computed using the benefit matrices and multipliers in the LIHEAP Benefit Award Matrix and Table of Multipliers. Reimbursement will be made by check payable to the household. The household must provide receipts to document paid eligible energy costs claimed. The household must provide receipts to support the paid eligible energy costs to the local contractor by June 20 or the end of the heating season, whichever is later.
- (3) For eligible households that have their energy costs included in their rental payments:
  - (a) The household will be paid a benefit computed monthly. For each month of the current heating season for which the household provides a paid rent receipt, the household will be reimbursed a prorated portion, determined by dividing one by the number of months in the heating season, of the benefit amount provided in ARM 37.70.601. However, the benefit paid to the household for any month must not exceed 50 percent of the rent paid for that month as evidenced by the rent receipt. Failure to provide rent receipts to the local contractor by June 20 or the end of the heating season, whichever is later, will result in the forfeiture of any benefits to which the household would otherwise be entitled.
  - (b) The benefit will be paid by check payable to the household.
- (4) Benefits for eligible households using wood to heat their dwelling will be paid as follows:
  - (a) by payment to a wood vendor for purchases of wood;
  - (b) at the option of the local contractor, by payment directly to the household for future purchases of wood. Households which receive a direct payment will not be entitled to any additional benefits for the current heating season which the household might otherwise be entitled to receive due to moving to

a different dwelling or other change in circumstances, except in an emergency as defined in ARM 37.70.901; or

- (c) when the household provides receipts to verify that the household has purchased wood between July 1 and the end of the heating season of the current state fiscal year, by a payment directly to the household reimbursing the household for wood already purchased. Households which are reimbursed based on paid receipts do not lose their right to additional benefits for the current heating season as provided in (4)(b). Failure to provide receipts verifying wood purchases to the local contractor by June 20 or the end of the heating season, whichever is later, will result in the forfeiture of any benefits to which the household would otherwise be entitled.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

### **37.70.608 ADJUSTMENT OF PAYMENTS TO AVAILABLE FUNDS**

- (1) When funds are not available to serve all eligible households, the department may, at its option, take any or all of the following steps:
  - (a) reduce the maximum benefit amounts of the benefit award matrices;
  - (b) limit eligibility to only financially needy households with a member 60 years of age or older, or with a member who is disabled and receiving supplemental security income or social security income based on permanent and total disability; or
  - (c) deny all subsequent applications.
- (2) If additional funds become available to serve eligible households, the department may, at its option, take any or all of the following steps:
  - (a) increase the maximum benefit amounts of the benefit award matrices;
  - (b) extend the duration of the current heating season beyond April 30;
  - (c) increase the maximum income standards for eligibility, if permitted by federal law;
  - (d) allow LIHEAP attributable credit balances ~~to remain on the recipients' accounts through the end of the 2022-2023 heating season. Any credit~~ LIHEAP attributable credit balance in excess of \$500 250 to remain on

recipients' accounts through the end of the heating season. Credits in excess of the maximum must be returned to the department ~~needs to be returned to the department by August 31, 2023; or~~

- (e) extend the deadline to submit paid receipts to correspond with the end of the heating season.

**Authorizing statute(s):** 53-2-201, MCA

**Implementing statute(s):** 53-2-201, MCA

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### **General Reasonable Necessity Statement**

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.70.311, 37.70.401, 37.70.402, 37.70.406, 37.70.407, 37.70.408, 37.70.601, 37.70.602, 37.70.607, and 37.70.608.

#### ARM 37.70.311

The department is proposing to eliminate the requirement that LIHEAP applicants, who are enrolled at least half time in an institution of higher learning, provide proof of their lack of tax dependency status. The effect of this amendment would be that college students living off campus may be eligible to receive LIHEAP benefits. Previously, LIHEAP policy viewed college students as dependents within their parents' household, which made them ineligible to receive LIHEAP benefits individually. College students are often responsible for their own cooling and heating cost. This change provides greater access to the LIHEAP program by allowing persons enrolled in college to qualify for LIHEAP assistance if all other eligibility requirements have been met.

The department also proposes a change that informs the public that the Combined Healthcare Information and Montana Eligibility System (CHIMES) is used to determine if eligibility criteria for LIHEAP have been met. This change makes the determination process more transparent.

The department further proposes to reduce the number of days LIHEAP applicants have to provide supporting eligibility information or documentation—from 45 to 30 days. This change will reduce "pending" cases and minimize situations where applicants stay in limbo for extended periods. A clear 30-day deadline helps clients prioritize submitting documents, reducing the chance of late or missing paperwork. This change will ensure LIHEAP funds are committed to eligible households quickly, avoid bottlenecks, and help ensure assistance reaches households in need while funds are available.

The department is seeking to provide greater transparency about how it determines LIHEAP eligibility. The “percent of poverty” is the percent of the federal poverty guidelines used by the department when determining eligibility; it is calculated by dividing the total household income by the federal poverty level for the number of people in the household. The benefit determination process utilizes the household’s percent of poverty to ensure those with the lowest percent of poverty receive higher benefits.

#### ARM 37.70.401

The department proposes to amend ARM 37.70.401 to update definitions for LIHEAP. A recent federal audit conducted by the Health and Human Services Administration for Children and Families in the Office of Community Services determined that the department must provide specificity and clarification on key definitions. In response to the audit findings, the department is seeking to clarify that the department uses the CHIMES income averaging system to determine annual gross income, and this determination is based on the twelve months immediately preceding the month of application.

Additionally, the department proposes removing “gifts” from the definition of “gross annual income” and “monthly gross income” to align with proposed amendments with ARM 37.70.407. The department intends for gifts to be counted towards a household’s resources when determining LIHEAP eligibility. The reason for this proposed change is that gifts are typically occasional, voluntary, and unpredictable; counting them towards a household’s income can distort the household’s true financial picture. LIHEAP applicants may benefit from this change because there could be a reduction in their gross income that may otherwise be artificially inflated by the receipt of a monetary gift. This potential benefit to LIHEAP applicants must be balanced with the department’s interest in ensuring it has an accurate representation of households’ financial situations. Counting gifts as resources instead of income fairly represents each interest.

For self-employment income verification, the department proposes that the applicant household must provide twelve months’ gross receipts to determine eligibility. This change would adopt into LIHEAP the same requirements for reporting self-employment income as those currently used by the Supplemental Nutrition Assistance Program (SNAP). This proposed amendment is necessary to ensure coordination of recording income within CHIMES across all programs since SNAP, Medicaid, and LIHEAP all use CHIMES to record income. The proposed amended definition of “gross receipts” will clarify and give notice of this change.

The department proposes to update the definition of “eligible energy costs” to include off-route fees and re-light fees. Off-route fees are often additional charges by the utility vendor for making special trips to provide energy services to a client. Re-light fees are additional fees for a vendor to re-light a pilot light. These changes clarify that LIHEAP benefits may be used for these charges and not be charged directly to LIHEAP clients. Clients benefit from this change because they can now request these services to be charged to LIHEAP rather than pay out-of-pocket, and the vendor would receive direct payments from LIHEAP.

Additionally, the department proposes updating the reference to the LIHEAP heating season to the current 2025-2026 heating season time frame. This change modernizes the rule. The department is proposing to remove the date of June 20th to allow the department discretion on the final date to request reimbursement based on available funding.

The department proposes updating the example of “state fiscal year” to further modernize the rule.

The department proposes adding a new definition of “income averaging” to describe the process for calculating income through CHIMES. The department is updating the income averaging section to reflect the process within CHIMES wherein monthly income is averaged to calculate a household’s annual income. CHIMES allows the department to enter when paychecks are received. This is important for accurately calculating income when an individual is paid biweekly because this pay period schedule will usually result in 26 paychecks a year, instead of 24. This process provides the correct calculation to average an individual’s income, which will result in a more accurate LIHEAP benefit amount.

The department proposes updating the definition of “life-threatening” to include additional clarification on conditions that qualify. A recent audit by the federal Health and Human Services Administration for Children and Families in the Office of Community Services indicated that the department must provide specificity and clarification on key definitions. The additional examples provide clarity on what life-threatening emergencies are included so that agencies can provide services to LIHEAP clients consistently across Montana.

The department proposes to update the definition of “medically needy” to specify that an individual or family that has been determined to be “medically needy” for the purposes of Montana Medicaid may or may not have a LIHEAP incurment. As the department moved LIHEAP eligibility determinations to CHIMES, the department adopted the process of incurment that is used for individuals identified as medically needy within Medicaid. This was necessary as income data is shared across programs within the system. The incurment means that the portion of a medically needy person’s income that exceeds the medically needy income standard for the size of the household may be deducted from the applicant’s gross income, which provides greater flexibility in becoming eligible for LIHEAP.

The department additionally proposes to update the definition of “nontraditional dwelling unit” to include examples recreational vehicles (RV’s), campers, and other structures such as storage sheds, garages, yurts, utility trailers, storage containers, and railroad cars. Adding examples to the definition provides greater clarity of what units would be considered “nontraditional dwellings.” This change provides clarity to local agencies, meaning LIHEAP services are provided consistently across the state to clients who live in these types of dwellings.

#### ARM 37.70.402

The department proposes to amend ARM 37.70.402 to reflect the proposed change to 37.70.311 regarding college students living off campus. The rationale for this change is explained above.

#### ARM 37.70.406

The department proposes to amend this rule to provide updated income standards used to determine eligibility for LIHEAP for the 2025-2026 heating season. This change is necessary to take into account increases in the cost of living. The department uses the poverty guidelines for the current year because they are usually higher than the guidelines for the previous year, resulting in higher standards for the current heating season. If the department did not use the updated guidelines, some households might be ineligible for LIHEAP due to inflationary increases in the household's income that do not reflect an increase in buying power.

#### ARM 37.70.407

The department intends to amend ARM 37.70.407 to clarify what is considered unearned income when calculating LIHEAP eligibility. These updates include adding that the proceeds from the sale of a family home are excluded only if the household is living in the residence at the time of the sale. Sales from other residences would be considered earned income and included in the benefit calculation. The reason for this proposed change is that primary residences differ from other real property inasmuch as they are the LIHEAP household's dwelling rather than wholly investment properties. This proposed change will better account for an applicant household's net worth while not penalizing individuals who sell their primary residence in efforts to purchase a new home or for other reasons.

The department proposes updating (1)(w) to reflect the proposed changes made to ARM 37.70.401, specifically the proposal that gifts be counted as a resource when determining a household's eligibility to LIHEAP. The rationale is explained above.

#### ARM 37.70.408

The department intends to amend ARM 37.70.408 to update the LIHEAP heating season to the 2025-2026 heating season time frame. This change is necessary to ensure readers can locate and review the appropriate 2025-2026 resource standards.

#### ARM 37.70.601

The department intends to amend ARM 37.70.601 to update the LIHEAP heating season to the 2025-2026 heating season time frame. This change is necessary to ensure readers can locate and review the appropriate 2025-2026 resource standards. Small changes to department contact information are proposed to reflect changes in the bureau name.

The department proposes to add non-traditional dwellings to the LIHEAP benefit matrix. This change will provide clarity to local agencies, leading to statewide consistency in providing LIHEAP services to clients who live in these types of homes.

#### ARM 37.70.602

The department intends to amend this rule to clarify that eligible households may apply all or a portion of their benefit award to converting to a less costly heating fuel (“fuel switch”) if the department determines the fuel switch results in reduced energy costs. This change clarifies that the department has the authority to review and approve a fuel switch request. This change will lead to uniform results that prioritize responsible use of LIHEAP funds.

Additionally, LIHEAP benefits are calculated based on the dwelling the individual resides in at the time of the application. When a household moves during the heating season, the individual needs to reapply for LIHEAP and indicate the new dwelling, bedroom count, and heating type in order to accurately recompute the benefit award. The department uses the date the household started their heating obligation at the new residence as the start date for benefits which are then prorated throughout the remaining season. The department proposes changes that will clarify how and in what amount benefits are issued in the event a LIHEAP recipient changes residence.

#### ARM 37.70.607

The department proposes to increase the credit balance that can roll over at the end of a heating season from \$50 to \$250. Any LIHEAP credit balance in excess of \$250 must be returned to the department. The change from \$50 to \$250 allows eligible LIHEAP households to retain a greater credit that may be used against heating charges in the upcoming heating season. This change also reduces administrative costs related to returning nominal credit balances to the department.

The department also proposes removing language relating specifically to how credit balances were treated during the 2021-2022 and 2022-2023 heating seasons. Since these heating seasons have passed, this language is unnecessary.

An amendment to (4) is proposed to clarify that a LIHEAP recipient who uses wood to heat their home may utilize benefits in accordance with (a), (b), or (c).

#### ARM 37.70.608

The department intends to amend this rule and reduce the credit amount that may remain on a LIHEAP recipient’s account from \$500 to \$250. This change would align the balance amount with the change proposed in ARM 37.70.607.

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### **Fiscal Impact**

LIHEAP is 100% federally funded. Benefit levels for households using all types of heating fuel and for all dwelling types are expected to be comparable to the 2025-2026 heating season. It is estimated that 18,000 households will qualify for LIHEAP benefits this year, which is comparable to last year. As in past years, if LIHEAP funds for the 2025-2026 heating season are appropriated at a higher level, the additional funding will allow subsequent payments to be



issued to each LIHEAP recipient. The department does not anticipate any significant fiscal impact.

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### **Small Business Impact**

Pursuant to 2-4-111, MCA, the department has determined that these proposed changes may tangentially affect small businesses that are vendors providing goods and services to households receiving LIHEAP benefits. Specifically, vendors that provide off-route and re-light service may see an increase in these services for which LIHEAP funds can be used to pay. The department has not identified any probable significant and direct effects of the proposed rule changes on these small businesses.

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### **Bill Sponsor Notification**

The bill sponsor contact requirements do not apply.

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### **Interested Persons**

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

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### **Effective Date**

The department intends to apply the proposed amendments retroactively to July 1, 2025.

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### **Rule Reviewer**

Heidi Sanders

### **Approval**

Charles T. Brereton, Director  
Department of Public Health and Human Services