



JUN 5 1992

Regional Letter 92-50

FSP - Questions and Answers concerning Low Income Home Energy Assistance Act (LIHEAA) Payments and the Standard Utility Allowance (SUA)

Federal regulations at 273.9(d)(6)(ii) were amended on February 23, 1987, to include "recipients of energy assistance payments made under the Low Income Home Energy Assistance Act of 1981" among the households eligible to receive the SUA. All households that receive LIHEAA benefits are deemed to have incurred out-of-pocket energy expenses and are eligible for the SUA, even if their rent includes the cost of heat and they do not receive a separate bill.

Many questions have arisen concerning food stamp households in receipt of LIHEAA who do not have separately billed expenses, but who are entitled to the SUA. This regulation is particularly pertinent to elderly and disabled households who receive LIHEAA and live in residences with heat included in their rent because these households are entitled to an uncapped shelter expense.

LIHEAA is administered by the U. S. Department of Health and Human Services, and each State has its own approved plan. To learn more about your State's LIHEAA program, you may want to review the applicable LIHEAA State Plan and discuss its eligibility criteria with appropriate Federal or State staff.

The following represents recent questions and answers on LIHEAA and the SUA.

1. Q. Is the household's eligibility for the SUA based on:
a) eligibility for the LIHEAA program, b) the actual receipt of a LIHEAA payment, or c) the authorization of a LIHEAA payment?

- A. Eligibility for the SUA is based on either out-of-pocket expenses or receipt of a LIHEAA payment--either already received or anticipated to be received. Section 273.9 refers to "recipients" of LIHEAA payments. The eligibility worker (EW) is not expected to determine the households's eligibility for the LIHEAA program. If a LIHEAA payment has been authorized, the EW should be able to anticipate with reasonable certainty that it will be received.

Most households that will receive a LIHEAA payment and are billed separately will also incur some out-of-pocket expenses because most LIHEAA payments usually do not cover all of the expenses. However, this is not true in all cases. Households that have their utilities included in their rent payment may receive a LIHEAA payment. In some cases a household that incurs separate heating or cooling costs may receive a LIHEAA payment although someone outside of the household pays the expenses through excluded vendor payments. Regardless of whether or not there is an out-of-pocket expense, recipients of LIHEAA are eligible for the SUA.

2. Q. Many State LIHEAA program requirements include essentially two conditions which a household must meet in order to be eligible to receive a payment. First, the household's income must not exceed 150 percent of the poverty level. Second, the household must directly or indirectly be responsible for heating costs. Based on these very general requirements, almost every food stamp household with shelter costs is eligible for the LIHEAA program. Does this mean that all food stamps households are entitled to the full SUA?
- A. No. No matter who is "eligible" for the LIHEAA program, if a household has not applied and does not intend to apply for LIHEAA, it cannot be anticipated with reasonable certainty that a payment will be received. The SUA is given to households who have separately billed expenses or who have received or will be receiving LIHEAA.
3. Q. Is the EW required to review the household's eligibility for the LIHEAA program as part of the eligibility and authorization process for food stamps? If so, would it be necessary to incorporate the LIHEAA program regulations into our policy manuals?
- A. The EW is not required to determine the household's eligibility for the LIHEAA program. The EW is required to determine if a LIHEAA payment has been received by the household or if one is anticipated to be received.

4. Q. What is considered "reasonable anticipation" of receipt of LIHEAA? How should the EW document that (s)he reasonably anticipated a LIHEAA payment for the household and thus provided the full SUA? What if the funding of the LIHEAA program falls short and the household never receives their payment, after applying?

A. Regarding "reasonable anticipation" of receipt of LIHEAA, the State Agency must ultimately make this determination on an individual household basis. There are, however, some guidelines which may be used. For example, if the household does not incur any direct or indirect energy costs, it does not plan to apply for a LIHEAA payment, or there are no LIHEAA funds left for the period in question, it is very unlikely that the household will receive a LIHEAA payment. On the other hand, if the household incurs energy costs, it plans to apply for a LIHEAA payment, LIHEAA funds are available, and the household is receiving food stamps, it is likely that a LIHEAA payment will be received.

Households in which one or more individuals are receiving Aid to Families with Dependent Children, Supplemental Security Income, food stamps, or certain need-tested veterans' and survivors' payments do not have to meet the income test that other LIHEAA applicants must meet. Renters and home owners are required to be treated equitably under the LIHEAA program.

As with verification of any type of income, the provider agency is the best source of information, and we suggest that the State Agency contact the provider agency to determine the likelihood of payment, when it is likely to be received, and the amount of the payment.

If a household was allowed an SUA based solely on the anticipated receipt of a LIHEAA payment, but the LIHEAA payment was not received because of a shortage of funds, the State Agency should treat this information as a change in circumstances which will result in a decrease in food stamp benefits. The decrease in benefits should be made following the appropriate notice procedures.

5. Q. If a household has received LIHEAA and the SUA during a given year and then moves to a new apartment where the heat is included in the rent and they are not able to apply for LIHEAA yet, can they continue getting the SUA based on their previous receipt of LIHEAA?

A. No. When a household's circumstances regarding utility costs or receipt of a LIHEAA payment change, the household's entitlement to the SUA must be redetermined. The following examples may help to illustrate two possible situations:

1. For a new certification following a move in July (when it may not yet be possible to apply for LIHEAA), a household that received a LIHEAA payment the previous winter and anticipates with reasonable certainty that it will have heating expenses next winter and/or it will receive a LIHEAA payment, the SUA is allowed all year.

2. If a household was not entitled to the SUA at its old address and moves and will not start incurring separate expenses at the new location until sometime in the future, the household is not entitled to the SUA until it receives a LIHEAA payment or incurs out-of-pocket utility expenses during the period the SUA is intended to cover.

For situation #2 above, if the household moved in July and does not expect to incur expenses or receive a LIHEAA payment until October, and the SUA is intended to cover the period September through August of the following year, the SUA should not be allowed until September. The EW should take this anticipated change into account when certifying the household, perhaps by assigning the certification period to coincide with this change in circumstances. In States with an annualized SUA, the household remains entitled to the SUA until its circumstances change, e.g. the household moves.

6. Q. A household has a certification period of September 1, 1991 through August 31, 1992. The household has a heating expense and thus qualifies for the SUA. In January, it applies for and receives LIHEAA benefits. In May, the household moves to a residence where the heat is included in the rent. The next application period for LIHEAA is not until December. Since the household received LIHEAA at its prior residence, it intends to apply for it again. Is the household entitled to the SUA through the end of the certification period, August 31, 1992?

A. If a household had separate heating or cooling costs or received a LIHEAA payment at its old address and moves and anticipates with reasonable certainty incurring separate heating or cooling costs or receiving a LIHEAA payment at its new address about the same time this year as it did last year, the household is entitled to the SUA each month of the year regardless of what month the household moved. The State agency must determine if the LIHEAA payment in the particular case in question can be anticipated with reasonable certainty. It may want to contact the local LIHEAA agency to determine if LIHEAA payments are given to renters when utilities are included in their rent and the likelihood of a food stamp household that applies being approved to receive a LIHEAA payment. Actual heating expenses last year combined with an anticipated LIHEAA payment this year would keep the household in the cycle.

If a household was not entitled to the SUA at its old address, it moved in May, the certification period ended in August, and the household did not anticipate applying for a LIHEAA payment until December, the household would not be entitled to the SUA for the certification period ending in August. If it anticipated with reasonable certainty receipt of a LIHEAA payment in December, the household would be entitled to the SUA for the next certification period of September 1, 1992 through August 31, 1993.

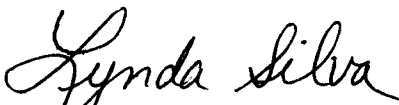
The regulations at 273.9(d)(6)(ii)(C) provide that in order to receive the SUA based on out-of-pocket expenses, the household must incur such expenses during the certification period. When a State agency has an annual SUA, we have determined that if the household has heating or cooling expenses anytime during the period the SUA is intended to cover, the household is entitled to the expenses during this time if it is longer than the certification period. This means that if a household has heating or cooling expenses during either the period the SUA is intended to cover or the certification period, the household is entitled to the SUA unless it moves and will not receive a LIHEAA payment or incur separate costs at its new address.

7. Q. In the following case situation, two food stamp households are sharing the same residence. The lease is in the name of Household A which is responsible for all utilities including electricity for heating and cooling. Household B pays rent to Household A. The rent indirectly includes heat. Both households receive a LIHEAA payment and are, therefore, also entitled to the SUA. Can each household receive a full heating SUA because they receive LIHEAA?
- A. No. Receipt of LIHEAA entitles both households to be eligible to use the SUA, if advantageous to do so. Without LIHEAA, Household B would not be entitled to an SUA because they do not incur an out-of-pocket expense. The normal rules for prorating the SUA among households that share the same residence would apply. (See 273.9(d)(6)(viii)). Only households that are eligible for the SUA may receive their prorated amount.
8. Q. Should the local agency allow the SUA based on presumptive eligibility for future LIHEAA payments?
- A. No. The SUA should only be allowed based on out-of-pocket expenses or a LIHEAA payment that can be anticipated with reasonable certainty as explained in question #4.

9. Q. Since a household receiving LIHEAA is entitled to the full SUA for 12 months, unless it moves, should the State program a 12-month "reminder" in the computer for the eligibility worker's use?
- A. All household circumstances are supposed to be explored at initial certification and each recertification, including sources of income and utility costs for the entire certification period. In addition, the EW is supposed to ask about utility costs when the household moves. Therefore, a computer reminder should not be necessary unless the State agency has a waiver to assign certification periods longer than 12 months.
10. Q. How is a LIHEAA payment made to the landlord handled?
- A. Sometimes a LIHEAA payment is sent directly to the landlord, and the rent the household must pay is reduced by the same amount. For food stamp purposes, the full amount of the rent must be allowed as a shelter deduction, and the LIHEAA household must be given the full SUA.
11. Q. An 80 year old woman lives with her son and gives him \$100 a month for rent. She is her own household for food stamp purposes. She receives a LIHEAA payment. Is she entitled to claim the full SUA?
- A. No. As stated in question 7, households that live in the same residence must share the SUA even if not all households are food stamp eligible. The woman in the example above would be entitled to a prorated share of the SUA.

If you have any questions on this information, please contact Susan Mahan at (617) 565-6415.

Sincerely,



Lynda Silva
Regional Director
Food Stamp Program
Northeast Region



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Department of
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Food and
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Reply to
Attn. of: FNFS-100

APR 22 1982

Subject: NERO Regional Letter, Clarification on LIHEEA Payments

To: Lynda Silva, Regional Director
Food Stamp Program
Northeast Region

This is in reply to your recent memorandum regarding the draft letter you plan to send to the States in your region regarding Low Income Home Energy Assistance Act (LIHEEA) payments and the SUA.

In the second answer, we suggest you add "and does not intend to apply" in the second line after "applied."

In regard to answer 4 on "reasonable certainty," we suggest the response be revised. The State agency must ultimately make this determination on an individual household basis. There are, however, some guidelines which may be used. For example, if the household does not incur any direct or indirect energy costs, it does not plan to apply for a LIHEEA payment, or there are no LIHEEA funds left for the period in question, it is very unlikely that the household will receive a LIHEEA payment. On the other hand, if the household incurs energy costs, it plans to apply for a LIHEEA payment, LIHEEA funds are available, and the household is receiving food stamps, it is likely that a LIHEEA payment will be received.

Households in which one or more individuals are receiving Aid to Families with Dependent Children, Supplemental Security Income, food stamps, or certain need-tested veterans' and survivors' payments do not have to meet the income test that other LIHEEA applicants must meet. Renters and home owners are required to be treated equitably under the LIHEEA program.

As with verification of any type of income, the provider agency is the best source of information, and we suggest that the State agency contact the provider agency to determine the likelihood of payment, when it is likely to be received, and the amount of the payment.

If a household was allowed an SUA based solely on the anticipated receipt of a LIHEEA payment, but the LIHEEA payment was not received because of a shortage of funds, the State agency should

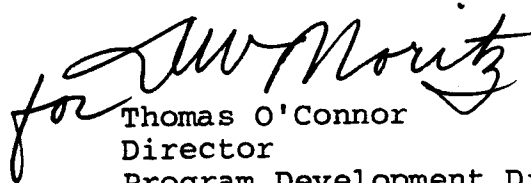
treat this information as a change in circumstances which will result in a decrease in food stamp benefits. The decrease in benefits should be made following the appropriate notice procedures.

When a household's circumstances regarding utility costs or receipt of a LIHEAA payment change, the household's entitlement to the SUA must be redetermined. If a household was not entitled to the SUA at its old address and moves and will not start incurring separate expenses at the new location until sometime in the future, the household is not entitled to the SUA until it receives a LIHEAA payment or incurs out-of-pocket utility expenses during the period the SUA is intended to cover. Therefore, if a household that was previously not eligible for an SUA moves and applies in July and does not expect to incur expenses or receive a LIHEAA payment until October, and the SUA is intended to cover the period September through August of the following year, the SUA should not be allowed until September. The EW should take this anticipated change into account when certifying the household, perhaps by assigning the certification period to coincide with this change in circumstances. In States with an annualized SUA, the household remains entitled to the SUA until its circumstances change, e.g. the household moves or the landlord starts including utilities in the rent.

For a new certification done in July for a household that received a LIHEAA payment the previous winter and anticipates with reasonable certainty that it will have heating expenses next winter or it will receive a LIHEAA payment, the SUA is allowed all year.

In regard to answer 5, the answer to the specific question "No." is correct, but see our response to answer 4 for the elaboration.

Concerning answer 8, all household circumstances are supposed to be explored at initial certification and each recertification, including sources of income and utility costs for the entire certification period. In addition, the EW is supposed to ask about utility costs when the household moves. Therefore, a computer reminder should not be necessary unless the State agency has a waiver to assign certification periods longer than 12 months.

for 
Thomas O'Connor
Director
Program Development Division

cc: All Regions

Tracy