

DEPARTMENT OF PUBLIC HEALTH  
AND HUMAN SERVICES

CHAPTER 70

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General Program Administration

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Subchapter 1

General Program Administration

37.70.101 SAFEGUARDING/SHARING INFORMATION (1) Disclosure of information concerning applicants for or recipients of low income energy assistance is restricted to purposes directly connected with the administration of such aid. Such purposes include establishing eligibility, determining amount of assistance, and providing benefits to or on behalf of applicants and recipients.

(a) Proper requests for information from a government authority, a court, or a law enforcement agency will be honored and the information released along with a notification of the confidentiality of the information and the penalty for misuse of such information. Whenever possible, the department will attempt to obtain prior consent from the applicant or recipient, except in emergency situations where notification will be given after the release of information and in cases where the information is released for legal and investigative actions concerning fraud, collection of support and third party medical recovery. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; TRANS, from SRS, 1998 MAR p. 2059.)

37.70.102 ROLE OF THE LOCAL CONTRACTOR (1) The department will contract with appropriate community-based organizations in the state to provide outreach and to receive and process applications for the low income energy assistance and weatherization programs.

(a) In providing outreach, the local contractor performs specified activities designed to inform all potentially eligible households in the contract area of the existence of and the benefits available under the low income energy assistance program. Such application may also constitute an application for weatherization.

(b) In receiving and processing applications, the local contractor determines household eligibility and benefit award under the rules contained in this chapter. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; TRANS, from SRS, 1998 MAR p. 2059.)

Rules 37.70.103 through 37.70.105 reserved

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37.70.106 FAIR HEARINGS (1) Any applicant/recipient who is aggrieved by an adverse department action as defined in ARM 37.5.304 may request a fair hearing as provided in ARM 37.5.307. Fair hearings and appeals of fair hearing decisions shall be conducted as provided in ARM 37.5.313, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331 and 37.5.334.

(2) It is the responsibility of the department through the local contractor to inform every applicant/recipient in writing at the time of application and at the time any action affects his benefits of the right to request a fair hearing. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2004 MAR p. 2818, Eff. 11/19/04.)

37.70.107 REFERRALS TO THE DEPARTMENT OF JUSTICE (1) When requested by the department, the department of justice shall have the power and duty to:

(a) investigate matters relating to low income energy assistance including, but not limited to, the claim for an acceptance of benefits by recipients and the receipt and disbursement of funds by the department or the local contractor; and

(b) institute civil and criminal actions in the appropriate courts to enforce the welfare laws with respect to low income energy assistance and violations thereof.

(2) The audit and compliance bureau is the liaison between the department and the department of justice. Referrals of fraud and requests for investigation must be sent to the Department of Public Health and Human Services, Quality Assurance Division, Audit and Compliance Bureau, 2401 Colonial Drive, P.O. Box 202953, Helena, MT 59620-2953, before they are referred to the department of justice. When the department of justice makes a direct request to the local contractor for case information, the information may be sent directly to the department of justice. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2002 MAR p. 3635, Eff. 11/28/02.)

Rules 37.70.108 and 37.70.109 reserved

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37.70.110 FRAUD/TRANSFER OF RESOURCES (1) Whoever knowingly obtains by means of a willfully false statement, representation, or impersonation or other fraudulent device low income energy assistance to which he is not entitled is guilty of theft as provided in 45-6-301, MCA and is ineligible for assistance for the entire current heating season.

(2) If an individual appears to have received assistance fraudulently, the local contractor must report all facts of the matter to the audit and compliance bureau. The bureau may in turn refer the matter to the department of justice or the county attorney of the county in which the recipient resides for further action.

(3) Resale or transfer of benefits to another party is expressly prohibited.

(4) Fuel vendors may not retain benefits of LIEAP beneficiaries who have discontinued service.

(5) Fuel assistance shall not be granted to any person who has deprived himself directly or indirectly of any resources for the purpose of qualifying for assistance. Any person who has transferred resources or interest in resources within one year of the date of application without receiving adequate consideration in money or money's worth shall be presumed to have made such transfer for the purpose of qualifying for assistance.

(a) The applicant or recipient may submit evidence that he did not make the transfer of resources for the purpose of qualifying for assistance.

(b) It is the responsibility of the applicant to submit this evidence. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1990 MAR p. 1959, Eff. 10/26/90; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04.)

Rules 37.70.111 through 37.70.114 reserved

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37.70.115 OVERPAYMENTS AND UNDERPAYMENTS (1) When it is discovered that an administrative error resulted in an underpayment of low income energy assistance, it may be corrected by increasing the benefit award to cover the underpayment.

(a) For purposes of determining financial eligibility, such retroactive corrective payments shall not be considered as income.

(2) Current and future program year payments of low income energy assistance will be reduced the full amount of prior overpayments, unless the administrative cost would exceed the amount of overpayment.

(a) However, cases in which the recipient willfully made false statements causing overpayment are to be referred to the audit and compliance bureau for determination of fraud as provided in ARM 37.70.110. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1985 MAR p. 1412, Eff. 9/27/85; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2004 MAR p. 1026, Eff. 4/23/04.)

Subchapter 2 reserved

Subchapter 3

Application and Eligibility Determination

37.70.301 INTERVIEWS REQUIRED AND CONTENT OF INTERVIEWS  
(REPEALED) (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1992 MAR p. 2201, Eff. 9/25/92; TRANS, from SRS, 1998 MAR p. 2059; REP, 2001 MAR p. 2037, Eff. 10/12/01.)

Rules 37.70.302 and 37.70.303 reserved

37.70.304 APPLICATIONS TO BE VOLUNTARY (1) Applications must be voluntary and initiated by the person in need, except an application may be made by a third party when the physical or mental condition of the person in need precludes his ability to make application himself. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2001 MAR p. 2037, Eff. 10/12/01.)

37.70.305 APPLICATION (1) A new application for low income energy assistance must be made for each new heating season and when a household changes residence during the heating season. An application is initiated by filing a signed written application on the form prescribed by the department at the office of the local contractor in the area where the applicant lives. If necessary, the contractor will provide assistance in completing the application form.

(2) The application form may be submitted by mail or by other means to the local contractor's office. The department or its contractor may, at their option, accept applications at locations other than the local contractor's office, such as a senior citizen center, as designated by the department or its contractor.

(3) An application for low income energy assistance generally must be filed during the heating season for which assistance is being sought, that is, between October 1 and April 30. If April 30 falls on a weekend or legal holiday, the contractor must accept applications on the next business day after the weekend or legal holiday. However, at the option of the department, applicants who use certain types of heating fuel which are sold at lower prices during the summer months or applicants for emergency services may be permitted to file their applications prior to October 1 of the heating season for which they are seeking assistance. In the case of applicants who use other types of fuel and who are not seeking emergency services, the contractor may in its discretion accept applications prior to October 1, but the date of application will be deemed to be October 1.

(4) No person or family will be excluded from participation in the low income energy assistance program or be discriminated against in regard to the amount of benefits or in any other regard on the basis of race, color, religion, sex, culture, age, creed, marital status, physical or mental disability, political beliefs, or national origin. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1993 MAR p. 2437, Eff. 10/15/93; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2005 MAR p. 2078, Eff. 10/28/05; AMD, 2007 MAR p. 974, Eff. 7/6/07.)

Rules 37.70.306 through 37.70.309 reserved

37.70.310 INVESTIGATION OF ELIGIBILITY (1) Investigations of eligibility will include securing information from the person applying for or receiving benefits and such other investigation as may be determined necessary by the department.

(a) Each application for assistance will be promptly and thoroughly investigated by a staff member of the local contractor. If a case is picked for quality control review, the client must cooperate or be subject to reduced, suspended, or terminated benefits. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1989 MAR p. 1571, Eff. 10/13/89; TRANS, from SRS, 1998 MAR p. 2059.)

37.70.311 PROCEDURES FOLLOWED IN PROCESSING APPLICATIONS

(1) The procedure for determining eligibility for low income energy assistance is:

(a) An application is filed by the applicant together with verification for determining financial eligibility and benefit award. After an application is filed, the contractor may request any additional information or documentation needed to determine eligibility and/or benefit amount. If an applicant fails to provide information or documentation necessary for a determination of eligibility within 45 days of the date of initial application the application shall be denied, but the household may reapply for assistance.

(i) Eligibility requirements that must be verified include but are not limited to:

(A) current receipt of benefits under supplemental security income or cash assistance funded by temporary assistance for needy families (TANF);

(B) income/resources;

(C) lack of tax dependency status for individuals enrolled at least half time in an institution of higher education;

(D) primary heating fuel; and

(E) 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 within 45 days of the heating season's end will result in forfeiture of any remaining benefits for that heating season.

(ii) If reasonable doubt exists as to the accuracy of the information provided by the client, the type of dwelling, number of bedrooms, and/or the primary heating fuel/vendor must also be verified.

(b) The contractor may at its option conduct an interview with the applicant in person or by telephone if necessary to determine eligibility. In cases where the contractor considers an interview to be necessary and neither the contractor's office nor a telephone is reasonably accessible to the applicant, the contractor will conduct the interview at some place which is reasonably convenient for both the applicant and the contractor.

(c) After eligibility and benefit amount has been determined, notice of the decision will be given to the applicant as provided in ARM 37.70.312.

(2) A household's eligibility and benefit amount will be determined based on the household's circumstances at the time the application is filed, including, but not limited to, the type of the household's dwelling, the number of bedrooms in the dwelling, the dwelling's primary heating fuel, the heating district in which the dwelling is located, who is residing in the household, and the household's resources. Eligibility in regard to income, however, is based on the household's income in the 12 months immediately preceding the month of application, as provided in ARM 37.70.401(1) and 37.70.406(1).

(3) The applicant has the burden of proving that the household meets all requirements for eligibility. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 1786, Eff. 9/23/05; AMD, 2007 MAR p. 974, Eff. 7/6/07.)

37.70.312 NOTIFICATION OF ELIGIBILITY (1) An individual who makes application for low income energy assistance will be notified in writing whether the application has been approved or denied and, if the application is approved, of the benefit amount. If the application is denied, the notice shall state the reason for the denial. A notice approving or denying an application shall advise the applicant of the right to a fair hearing as provided in ARM 37.5.307. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1989 MAR p. 1571, Eff. 10/13/89; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2007 MAR p. 974, Eff. 7/6/07.)

Rules 37.70.313 through 37.70.317 reserved

37.70.318 NOTICE OF ADVERSE ACTION (1) Each person who receives assistance must be notified ten days in advance of any action that terminates or reduces his benefits. Notification must be in writing and contain information about the amount of decrease or the closure, the reason and legal basis for the action, and must advise the client of the date on which the action will take effect. The notice must inform the client of his right to a fair hearing.

(2) The local contractor may dispense with timely notice but must send adequate notice no later than the date of action in the following situations:

- (a) recipient dies;
- (b) recipient no longer wishes assistance;
- (c) recipient admitted or committed to an institution;
- (d) recipient fraudulently obtained benefits. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; TRANS, from SRS, 1998 MAR p. 2059.)

Subchapter 4

Coverage and Conditions of Eligibility

37.70.401 DEFINITIONS (1) "Annual gross income" means all nonexcluded income including but not limited to 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 in the 12 months immediately preceding the month of application.

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

(2) "Annual 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 in the 12 months immediately preceding the month of application.

(3) "Disabled individual household" means a household in which resides 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.

(4) "Elderly" means a person who is 60 years of age or older.

(5) "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 that charges incurred from July 1 through September 30 for propane to heat a residence are eligible for payment in the current heating season. Provided, however, that eligible energy costs may include energy delivered prior to October 1 for applications filed after September 30, when the type of fuel and the vendor's normal billing procedures make the above definition impracticable.

(6) "Heating season" means the period from October 1 to April 30 of the following year. For example, the 1999 through 2000 heating season is the period from October 1, 1999, through April 30, 2000. The department may, however, in its sole discretion, extend the heating season beyond April 30. If the heating season is extended beyond April 30, LIEAP 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.

(7) "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.

(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 at the option of the LIEAP applicant. This option must be exercised 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.

(8) "In-kind income" means goods, services, or other nonmonetary benefits, including but not limited to meals, clothing, housing, or produce.

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

(10) "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 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.

(11) "LC" means local contractor.

(12) "Member receiving supplemental security income (SSI), TANF-funded cash assistance, or county or tribal general assistance (GA)" means any member of a household whose needs are included in the SSI, TANF-funded cash assistance, indigent assistance or tribal GA grant, or any person whose income and resources are considered in determining eligibility for those programs.

(13) "Mobile home" means a single wide trailer or mobile home only.

(14) "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.

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

(16) "Paid eligible energy costs" means out-of-pocket expenditures paid by an eligible household in the form of rent payments or direct payments to a fuel vendor or person responsible for the fuel account for energy costs incurred during the heating season, for the dwelling in which the household resides at the time of application.

(17) "Self-employment deductions" means all costs, excluding depreciation costs, necessary for the creation of any income from self-employment.

(18) "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 transients, students, or other individuals seeking short-term or nonpermanent living situations.

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

(20) "Single family unit" means a building which contains a single shelter or rental unit for living purposes. For purposes of the program, a double wide trailer or mobile home is considered a single family unit.

(21) "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 2004 means the period from July 1, 2003 through June 30, 2004.

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

(23) "Valid loan" means a monetary payment received from a source outside the household, including but not limited to a private individual or a commercial institution, which must be repaid at a future date. The agreement to repay may be either oral or written.

(24) "Vendor payment" means a monetary payment made on behalf of the household by a person or entity which is not a member of the household to a third party outside the household such as a creditor of the household or a person or entity providing services or goods to the household. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1987 MAR p. 2245, Eff. 12/11/87; AMD, 1988 MAR p. 2042, Eff. 10/1/88; AMD, 1989 MAR p. 1571, Eff. 10/13/89; AMD, 1992 MAR p. 2201, Eff. 9/25/92; AMD, 1993 MAR p. 1113, Eff. 5/28/93; AMD, 1993 MAR p. 2437, Eff. 10/15/93; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2007 MAR p. 974, Eff. 7/6/07; AMD, 2007 MAR p. 1948, Eff. 11/22/07.)

37.70.402 ELIGIBILITY REQUIREMENTS FOR CERTAIN TYPES OF INDIVIDUALS AND HOUSEHOLDS

(1) Except as provided elsewhere in this rule, households which consist solely of members receiving supplemental security income, TANF-funded cash assistance, or county or tribal general assistance are automatically financially eligible for low income energy assistance benefit awards.

(2) Households which consist of members receiving SSI, TANF-funded cash assistance, or county or tribal general assistance, and other individuals whose income and resources were not considered in determining eligibility for SSI, TANF-funded cash assistance, or general assistance are not automatically eligible for low income energy assistance but must meet the financial requirements set forth in this rule.

(3) Individuals living in shelters, including but not limited to recipients of SSI, TANF-funded cash assistance, or county or tribal general assistance, are not eligible for low income energy assistance. 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 low income energy assistance.

(4) 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 which is eligible in the current heating season, or which would be eligible in the current heating season if the household applied, are ineligible for low income energy assistance.

(5) Households that are eligible for or that have received LIEAP benefits through an Indian tribal program funded by the U.S. Department of Health and Human Services may not receive LIEAP 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 LIEAP benefits; in that case, the household may apply for a prorated LIEAP benefit based on the household's new circumstances as provided in ARM 37.70.602. Additionally, any individual who was a member of a household that received LIEAP benefits through an Indian tribal program funded by the U.S. Department of Health and Human Services may not receive LIEAP benefits from the department for the same heating season unless the individual leaves the household that received tribal LIEAP benefits during the heating season and is no longer eligible for tribal LIEAP benefits; in that case the individual may apply for a prorated LIEAP benefit from the department for the same heating season based on the circumstances of the individual's new household as provided in ARM 37.70.602.

(6) Residents of publicly subsidized housing whose heating costs are included as a portion of their rent and whose rent is a fixed portion of their income are not eligible for low income energy assistance benefits provided for in ARM 37.70.601 but are eligible for weatherization assistance as provided for in ARM Title 37, chapter 71.

(7) Current and future benefits may be denied any applicant or recipient who, having been prioritized for weatherization services as a high excess energy user, according to the criteria set forth in ARM 37.71.401 and 37.71.601, refuses, from reasons within his control, energy conservation services for the weatherization assistance program (WAP). The applicant or recipient may become eligible for benefits again by accepting the WAP energy conservation services. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1986 MAR p. 1606, Eff. 9/26/86; AMD, 1987 MAR p. 1805, Eff. 10/16/87; AMD, 1989 MAR p. 1571, Eff. 10/13/89; AMD, 1992 MAR p. 2201, Eff. 9/25/92; AMD, 1993 MAR p. 2437, Eff. 10/15/93; AMD, 1996 MAR p. 2887, Eff. 10/25/96; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2007 MAR p. 1948, Eff. 11/22/07.)

Rules 37.70.403 through 37.70.405 reserved

37.70.406 INCOME STANDARDS (1) Households with annual gross income at or below 150% of the 2007 U.S. Department of Health and Human Services poverty guidelines are eligible for low income energy assistance on the basis of income. Households with an annual gross income above 150% of the 2007 poverty guidelines are ineligible for low income energy assistance, unless the household is automatically financially eligible for LIEAP benefits as provided in ARM 37.70.402 because all members of the household are receiving SSI, TANF-funded cash assistance, or county or tribal general assistance.

(2) The table of income standards for households of various sizes for the 2007 heating season may be accessed at the department's web site at [www.dphhs.mt.gov](http://www.dphhs.mt.gov), or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1986 MAR p. 1606, Eff. 9/26/86; AMD, 1987 MAR p. 1805, Eff. 10/16/87; AMD, 1988 MAR p. 2042, Eff. 10/1/88; AMD, 1989 MAR p. 1571, Eff. 10/13/89; AMD, 1990 MAR p. 1959, Eff. 10/26/90; AMD, 1991 MAR p. 1857, Eff. 10/1/91; AMD, 1992 MAR p. 2201, Eff. 9/25/92; AMD, 1993 MAR p. 2437, Eff. 10/15/93; AMD, 1994 MAR p. 2642, Eff. 9/23/94; AMD, 1995 MAR p. 2157, Eff. 10/13/95; AMD, 1996 MAR p. 2887, Eff. 10/25/96; AMD, 1997 MAR p. 2296, Eff. 12/16/97; TRANS, from SRS, 1998 MAR p. 2059; AMD, 1999 MAR p. 414, Eff. 3/12/99; AMD, 1999 MAR p. 2575, Eff. 11/5/99; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 2078, Eff. 10/28/05; AMD, 2007 MAR p. 974, Eff. 7/6/07; AMD, 2007 MAR p. 1948, Eff. 11/22/07.)

37.70.407 CALCULATING INCOME (1) Excluded from income are the following types of unearned income and deductions:

- (a) complementary assistance from other agencies and organizations which consists of goods and services not included in or duplicated by the low income 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 OASDI benefits for 18 to 22 year olds who are full-time students;
- (e) the value of the food stamp coupon 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, 20 USC 9201 et seq.;

- (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;
- (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 LIEAP 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 during the 12 months 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) gifts 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 that do not constitute income or benefits for any of the 12 months 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, however; and

(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. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1986 MAR p. 1606, Eff. 9/26/86; AMD, 1987 MAR p. 1805, Eff. 10/16/87; AMD, 1988 MAR p. 2042, Eff. 10/1/88; AMD, 1990 MAR p. 1959, Eff. 10/26/90; AMD, 1991 MAR p. 1857, Eff. 10/1/91; AMD, 1992 MAR p. 2201, Eff. 9/25/92; AMD, 1993 MAR p. 2437, Eff. 10/15/93; AMD, 1994 MAR p. 2642, Eff. 9/23/94; AMD, 1995 MAR p. 2157, Eff. 10/13/95; AMD, 1996 MAR p. 2887, Eff. 10/25/96; AMD, 1997 MAR p. 504, Eff. 10/25/96; AMD, 1997 MAR p. 2296, Eff. 12/16/97; TRANS, from SRS, 1998 MAR p. 2059; AMD, 1999 MAR p. 414, Eff. 3/12/99; AMD, 1999 MAR p. 2575, Eff. 11/5/99; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 2078, Eff. 10/28/05.)

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/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.

(3) The value of the family home and the proceeds from the sale of the family home are not included as a resource for 12 months from the date of sale of the family home.

(4) In state fiscal year 2008, a household will be eligible if its total countable nonbusiness resources do not exceed \$9,378 for a single person, \$14,071 for two persons, and an amount equal to \$14,071 plus \$938 for each additional household member, up to a maximum of \$18,759 per household. In addition, the household may have business assets whose equity value does not exceed \$12,500.

(5) The dollar limitations on nonbusiness resources listed elsewhere in this rule shall 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) 3%. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1991 MAR p. 1857, Eff. 10/1/91; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 2078, Eff. 10/28/05; AMD, 2007 MAR p. 974, Eff. 7/6/07; AMD, 2007 MAR p. 1948, Eff. 11/22/07.)

Subchapter 5 reserved

Subchapter 6

Need and Amount of Assistance

37.70.601 BENEFIT AWARD (1) The benefit matrices in (1)(c) and (1)(d) are used to establish the benefit payable to an eligible household for a full heating season. The benefit varies by household income level, type of primary heating fuel, the type of dwelling (single family unit, multi-family unit, mobile home), the number of bedrooms in the dwelling, and the heating districts in which the household is located, to account for climatic differences across the state.

(a) The benefit payable to an eligible household will be computed by multiplying the applicable amount in the table of base benefit levels found in (1)(c) by the applicable matrix amount in the table of income/climatic adjustment multipliers found in (1)(d).

(b) Applicants may claim no more bedrooms than household members except that single elderly and disabled individual households are entitled to claim two bedrooms if their dwelling unit contains more than one bedroom.

(c) The following table of base benefit levels takes into account the number of bedrooms in a house, the type of dwelling structure, and the type of fuel used as a primary source of heating:

## TABLE OF BENEFIT LEVELS

## (i) SINGLE FAMILY

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 477	\$ 616	\$ 900	\$1,023	\$ 527	\$ 281
TWO	694	896	1,308	1,486	765	409
THREE	947	1,221	1,782	2,026	1,042	557
FOUR	1,302	1,680	2,452	2,787	1,434	766

## (ii) MULTI-FAMILY

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 404	\$ 522	\$ 761	\$1,087	\$ 445	\$ 238
TWO	609	785	1,146	1,637	669	357
THREE	894	1,152	1,682	2,402	982	525
FOUR	1,044	1,346	1,965	2,806	1,147	614

## (iii) MOBILE HOME

# BEDROOMS	NATURAL					
	GAS	ELECTRIC	PROPANE	FUEL OIL	WOOD	COAL
ONE	\$ 403	\$ 519	\$ 759	\$ 903	\$ 444	\$ 237
TWO	589	760	1,108	1,321	649	346
THREE	781	1,007	1,470	1,751	860	459
FOUR	871	1,124	1,641	1,954	959	513

(d) The following table is based upon the household's income as a percentage of the federal poverty guideline and adjusted for climatic differences in the ten human resource development council service areas in the state of Montana:

TABLE OF INCOME/CLIMATIC ADJUSTMENT MULTIPLIERS

PERCENT OF POVERTY	AEM	IV	V	VI	VII	VIII	IX	X	XI	XII
0 - 11	1.00	1.08	0.98	0.99	0.93	1.02	1.08	0.90	0.92	1.09
> 11 - 23	0.95	1.02	0.94	0.94	0.89	0.97	1.03	0.86	0.87	1.04
> 23 - 35	0.90	0.97	0.89	0.89	0.84	0.92	0.98	0.81	0.82	0.98
> 35 - 47	0.85	0.92	0.84	0.84	0.79	0.87	0.92	0.77	0.78	0.93
> 47 - 59	0.80	0.86	0.79	0.79	0.75	0.82	0.87	0.72	0.73	0.87
> 59 - 71	0.75	0.81	0.74	0.74	0.70	0.77	0.81	0.68	0.69	0.82
> 71 - 83	0.70	0.75	0.69	0.69	0.65	0.71	0.76	0.63	0.64	0.76
> 83 - 95	0.65	0.70	0.64	0.64	0.61	0.66	0.70	0.59	0.60	0.71
> 95 - 107	0.60	0.65	0.59	0.59	0.56	0.61	0.65	0.54	0.55	0.65
>107 - 119	0.55	0.59	0.54	0.54	0.51	0.56	0.60	0.50	0.50	0.60
>119 - 131	0.50	0.54	0.49	0.49	0.47	0.51	0.54	0.45	0.46	0.55
>131 - 143	0.45	0.48	0.44	0.44	0.42	0.46	0.49	0.41	0.41	0.49
>143 - 150*	0.40	0.43	0.39	0.39	0.37	0.41	0.43	0.36	0.37	0.44

\*This category also applies to those whose income exceeds 150% of the poverty guideline and meets the criteria of ARM 37.70.406(1)(a).

(History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 131, Eff. 2/11/83; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; EMERG, AMD, 1986 MAR p. 362, Eff. 3/14/86; AMD, 1986 MAR p. 1606, Eff. 9/26/86; AMD, 1987 MAR p. 1805, Eff. 10/16/87; AMD, 1988 MAR p. 2042, Eff. 10/1/88; AMD, 1989 MAR p. 1571, Eff. 10/13/89; AMD, 1990 MAR p. 2307, Eff. 10/26/90; AMD, 1991 MAR p. 1857, Eff. 10/1/91; AMD, 1992 MAR p. 2201, Eff. 9/25/92; AMD, 1993 MAR p. 2437, Eff. 10/15/93; AMD, 1994 MAR p. 2642, Eff. 9/23/94; AMD, 1995 MAR p. 2157, Eff. 10/13/95; AMD, 1996 MAR p. 2887, Eff. 10/25/96; AMD, 1997 MAR p. 2296, Eff. 12/16/97; TRANS, from SRS, 1998 MAR p. 2059; AMD, 1999 MAR p. 414, Eff. 3/12/99; AMD, 1999 MAR p. 2575, Eff. 11/5/99; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2001 MAR p. 401, Eff. 3/9/01; AMD, 2001 MAR p. 2037, Eff. 10/12/01; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 1786, Eff. 9/23/05; AMD, 2005 MAR p. 2078, Eff. 10/28/05; AMD, 2007 MAR p. 974, Eff. 7/6/07; AMD, 2007 MAR p. 1948, Eff. 11/22/07; AMD, 2008 MAR p. 810, Eff. 4/25/08.)

37.70.602 BENEFIT AWARDS: MISCELLANEOUS (1) Households found eligible may apply all or a portion of their benefit award for conversion to a less costly heating fuel.

(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 a 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 circumstances, and the new benefit will be equal to the benefit award the household would have received had its original application been for the new circumstances prorated from the date of the change of residence. Any unused portion of the original benefit award reverts to the department. When a household changes 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 award will be prorated for applicants 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.

(5) When a household changes primary fuel vendors any remaining LIEAP attributable credit balance will be returned to the department by the original fuel vendor. The unused portion of the benefit award may be forwarded to the new fuel vendor or reimbursed to the household as outlined in ARM 37.70.607. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 131, Eff. 2/11/83; AMD, 1983 MAR p. 1362, Eff. 9/30/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1986 MAR p. 1606, Eff. 9/26/86; AMD, 1993 MAR p. 2437, Eff. 10/15/93; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2005 MAR p. 2078, Eff. 10/28/05; AMD, 2007 MAR p. 1948, Eff. 11/22/07.)

37.70.603 REVERSION OF BENEFITS (1) If a beneficiary discontinues utility service or changes residence or fuel type, the balance of the fuel benefit will be returned to the department. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1984 MAR p. 1481, Eff. 10/12/84; TRANS, from SRS, 1998 MAR p. 2059.)

Rules 37.70.604 through 37.70.606 reserved

37.70.607 AMOUNT AND METHOD OF PAYMENT (1) Eligible households that are billed for energy costs directly by the fuel vendor shall be paid a benefit in the amount provided by ARM 37.70.601 and shall 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 \$50 attributable to the benefit or adjusted award after the end of the heating season must be returned to the department.

(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 less than \$50.

(d) All credit balances are presumed to be from previous program awards unless the applicant 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 member of the household shall be reimbursed for eligible energy costs paid by the household, provided that the amount paid to the household for the heating season shall not exceed the benefit amount provided by ARM 37.70.601. Reimbursement shall 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 within 45 days of the end of the heating season for which benefits are sought.

(3) For eligible households that have their energy costs included in their rental payments:

(a) The household shall be paid a benefit computed on a monthly basis. For each month of the current heating season for which the household provides a paid rent receipt, the household shall be reimbursed a pro rata portion (determined by dividing one by the number of months in the heating season) of the benefit amount provided in ARM 37.70.601; provided, however, that the benefit paid to the household for any month shall not exceed 50% of the rent paid for that month as evidenced by the rent receipt. Failure to provide rent receipts to the local contractor within 45 days of the end of the heating season shall result in the forfeiture of any benefits to which the household would otherwise be entitled.

(b) The benefit shall be paid by check payable to the household.

(4) Benefits for eligible households using wood to heat their dwelling shall be paid as follows:

(a) by payment to a wood vendor for purchases of wood;

(b) at the option of the local agency, by payment directly to the household for future purchases of wood, provided, however, that households which receive a direct payment shall not be entitled to any additional benefits for the current heating season which the household might otherwise be entitled to receive due to a move to a different dwelling or other change in circumstances, except 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 by a direct payment 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 within 45 days of the end of the heating season of the calendar year in which the heating season for which benefits are sought ended shall result in the forfeiture of any benefits to which the household would otherwise be entitled.

(History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1982 MAR p. 1771, Eff. 10/1/82; AMD, 1983 MAR p. 131, Eff. 2/11/83; AMD, 1984 MAR p. 1481, Eff. 10/12/84; AMD, 1985 MAR p. 1412, Eff. 9/27/85; AMD, 1986 MAR p. 2021, Eff. 12/12/86; AMD, 1987 MAR p. 1805, Eff. 10/16/87; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2004 MAR p. 1026, Eff. 4/23/04; AMD, 2004 MAR p. 2818, Eff. 11/19/04; AMD, 2005 MAR p. 1786, Eff. 9/23/05.)

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 as needed:
- (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;
  - (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 as needed:
- (a) increase the maximum benefit amounts of the benefit award matrices;
  - (b) extend the duration of the current heating season beyond April 30; or
  - (c) increase the maximum income standards for eligibility, if permitted by federal law. (History: 53-2-201, MCA; IMP, 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1983 MAR p. 1362, Eff. 9/30/83; TRANS, from SRS, 1998 MAR p. 2059; AMD, 2002 MAR p. 3635, Eff. 11/28/02; AMD, 2005 MAR p. 1786, Eff. 9/23/05.)

Subchapters 7 and 8 reserved

Subchapter 9

Emergency and  
Supplemental Assistance

37.70.901 EMERGENCY ASSISTANCE (1) Emergency assistance under the low income energy assistance program may be provided to an eligible household in the following circumstances only when such circumstances present a serious, immediate threat to the health and safety of the household:

(a) the household's primary supply of energy is interrupted because of weather conditions and another supply or a different type of energy is necessary;

(b) weather or other forces outside the control of the household damages the household's dwelling and causes the dwelling to suffer a severe loss of heat;

(c) hazardous or potentially hazardous conditions exist in the household's primary home water heating and/or space heating systems and safety modifications to the system are required; or

(d) any other home energy-related conditions caused by severe weather conditions, fuel shortages and/or acts of God.

(2) Eligibility requirements:

(a) A household eligible for the low income energy assistance program which has an emergency as defined above is eligible for emergency assistance.

(b) A household which would be eligible for the low income energy assistance program had the household applied and which has an emergency as defined above is also eligible for emergency assistance.

(3) The household is responsible, at its own expense, for documenting that circumstances exist which present a serious, immediate threat to the household as defined in (1)(a) through (d). The local contractor may, however, in its discretion and subject to the priorities and restrictions specified in its contract with the department, assist the household in identifying and documenting such circumstances, if the local contractor has the expertise and resources to do so.

(4) Emergency assistance payments may be made on behalf of the eligible household for actual costs necessary to alleviate the emergency. However, no emergency assistance payments will be made for costs which are the liability of a third party, unless the household assigns to the department in writing its rights to such third party payments. Emergency assistance payments are limited to a total of \$250 per household in a 12 month period commencing on the first of October immediately preceding the date of the request for emergency assistance, except as follows:

(a) An eligible household may receive emergency assistance payments which total more than \$250 in a 12 month period if the local contractor determines before the services are rendered that services are necessary to alleviate an emergency.

(5) Subject to the provisions of (6), after a household has requested emergency assistance and provided proof that it is financially and otherwise eligible for such assistance, the contractor shall provide some form of assistance to resolve the emergency:

(a) within 48 hours after the request is made in all cases; and

(b) within 18 hours after the request is made, if the emergency is a life-threatening situation.

(6) The time limits contained in (5)(a) and (b) for provision of emergency assistance do not apply in a geographical area affected by a disaster or emergency as designated in (6)(a) and (b), as long as the designation is in effect, if the secretary of the U.S. department of health and human services determines that the disaster or emergency makes compliance with the time limits impracticable. This exception to the time limit applies when:

(a) a natural disaster has been designated by the secretary of the U.S. department of health and human services; or

(b) a major disaster or emergency has been designated by the president under the Disaster Relief Act of 1974.

(7) The identification, removal, and/or abatement of asbestos is not an allowable use of emergency assistance funds. (History: Sec. 53-2-201, MCA; IMP, Sec. 53-2-201, MCA; NEW, 1982 MAR p. 732, Eff. 4/16/82; AMD, 1997 MAR p. 2296, Eff. 12/16/97; TRANS, from SRS, 1998 MAR p. 2059; AMD, 1999 MAR p. 414, Eff. 3/12/99; AMD, 1999 MAR p. 2575, Eff. 11/5/99; AMD, 2000 MAR p. 2707, Eff. 10/6/00; AMD, 2004 MAR p. 2818, Eff. 11/19/04.)

