

Title of Proposed Rule: Annual Low Income Energy Assistance Program
CDHS Tracking #: 16-5-11-2
Revising official Rule #s: 9 CCR 2503-7
Office, Division, & Program: Rule Author: Aggie Berens Phone: (303) 861-0337
OES, Food & Energy E-Mail:
Assistance, LEAP aggie.berens@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)

The Low Income Energy Assistance Program (LEAP) is reviewed annually for updates that may be needed for the next benefit season, beginning November 1st. New rule changes proposed are:

- Revising language to require counties to determine eligibility in 30 calendar days from receipt of application for regular cases to align with the C-Stat goal.
- Revising a rule that requires counties to pend emergency cases within 2 calendar days from receipt of the application and ten calendar days for regular cases.
- Adding a rule to identify the penalties associated with misuse of the EBT card at an identified prohibited location to implement H.B. 15-255.
- Adding in-kind income to the earned income rule. This provision was inadvertently left out when Section 3.200 was transferred to LEAP rules for the 2014-2015 program year.
- Adding income exclusion for one time supplemental payments to align with other programs.
- Adding a code to deny a case when an applicant has been convicted of fraud.
- Updating the income requirements based on the federal poverty level guidelines and the flat rates used for benefit calculations.
- Revise and clarify language to assure consistency based on the review and recommendations from LEAP county stakeholders.

These rule changes align case processing timelines with C-Stat goals and provide streamlined and consistent processes to provide the framework for counties to better serve clients.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- to comply with state/federal law and/or
- to preserve public health, safety and welfare

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Justification for emergency:

Authority for Rule:

State Board Authority:

26-1-107, C.R.S. (2015) - State Board to promulgate rules; 26-1-109, C.R.S. (2015) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2015) - state department to promulgate rules for public assistance and welfare activities.

Program Authority:

26-2-122.5, C.R.S. (2015) – Colorado Department of Human Services is authorized to accept available monies including those for LEAP;
 26-2-104(2) (a), (b), C.R.S. (2015) – implementation of electronic benefits transfer services and rule-making.
 40-8-5-101, C.R.S. (2015) – low-income energy assistance program, established in the department of human services, to determine need for assistance to indigent, elderly, and persons with disabilities;
 40-8-7-101, C.R.S. (2015), et seq – Low-Income Energy Assistance Act;
 40-8.7-109; C.R.S. (2015) – LEAP eligibility for qualified individuals by CDHS;
 40.89.7-112(1) (2015) – Low-Income Energy Assistance fund administered by CDHS.

Does the rule incorporate material by reference? Yes No

Does this rule repeat language found in statute? Yes No

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

Colorado Legal Services, Economic Security Sub-PAC, Energy Outreach Colorado (EOC), Colorado Energy Office (CEO), Governor’s Commission on Low-Income Energy Assistance, Colorado Cross-Disability Coalition, County LEAP managers, and the County Human Services Directors’ Association.

[Note: Changes to rule text are identified as follows: deletions are shown as “~~strikethrough~~”, additions are in “all caps”, and changes made between initial review and final adoption are in brackets.]

Attachments:

- Regulatory Analysis
- Overview of Proposed Rule
- Stakeholder Comment Summary

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REGULATORY ANALYSIS

(complete each question; answers may take more than the space provided)

1. List of groups impacted by this rule:

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

The State LEAP unit, county staff, and clients will be positively impacted by aligning case processing timelines to C-Stat goals, defining penalties for misuse of the EBT card, and clarifying language to assure consistency in case processing.

2. Describe the qualitative and quantitative impact:

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Revising the case processing and pending timelines results in a better outcome for clients since a quicker eligibility determination assures continuity in energy services and maintenance of health and safety.

Clarifying existing language assures better direction for counties, improves efficiency in eligibility determination and timeliness in case processing, which positively impacts LEAP households and county staff.

Adding penalties for the misuse of EBT cards at prohibited locations assures appropriate use of funds and integrity of the program.

3. Fiscal Impact:

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources.

Answer should NEVER be just "no impact" answer should include "no impact because...."

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

No fiscal impact to the State because the program is funded through the U.S. Department of Health and Human Services and the program is administered within the allotted allocation.

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County Fiscal Impact

No fiscal impact to the counties because the State allocates the funds necessary to administer the program.

Federal Fiscal Impact

No impact because LEAP is funded through a federal block grant administered by the U.S. Department of Health and Human Services.

Other Fiscal Impact (such as providers, local governments, etc.)

No impact because energy providers are paid on behalf of eligible clients with allocated federal funds.

4. Data Description:

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The U.S. Department of Health and Human Services 2016 Poverty guidelines were used to set the income maximums at one hundred sixty-five percent of poverty level.

For example, the maximum annual income for a household size of four at 165% FPL is \$40,092 according to the Federal Poverty Guidelines. Since we base our figures on a monthly gross income, the annual figure is divided by twelve (12) months and rounded to the nearest dollar. Therefore, the maximum monthly gross income for a household of four is \$3,341.

5. Alternatives to this Rule-making:

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative.

Answer should NEVER be just "no alternative" answer should include "no alternative because..."

No alternatives were considered because rule-making is the only method available to update income guidelines, flat rates, and add/or revise language for the upcoming program year.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

<u>Section Numbers</u>	<u>Current Regulation</u>	<u>Proposed Change</u>	<u>Stakeholder Comment</u>	
			Yes	No
3.751.1	Definitions	Deletes the “emergency addressed” and adds “eligibility determined” under the Emergency Applicant definition. Adds a definition for Reapplication.		X
3.751.2, E	Households	Adds clarification regarding the treatment of an ex-spouse as a separate household.		X
3.751.45	None	Identify the penalties associated with misuse of the EBT card at an identified prohibited location.		X
3.752.1	Application Period	Deletes the word “written”.		X
3.752.22,C4	Income/Household Criteria	Adds In-kind income.		X
3.752.22, D	Income/Household Criteria	Deletes “January 22, 2015” as date poverty guidelines published in the federal register and adds “January 25, 2016”. Updates the table to reflect monthly gross income at 165% of poverty.		X
3.752.23, EE	Income Exclusions	Adds non-recurring lump sum payments to align with other public assistance programs.		No X

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3.753.12 B 1 E	Verification of Lawful Presence	Update the Re-codified CCR	X
3.754.1	Factors For Denial	Adds a denial code for an applicant found guilty of committing fraud.	X
3.755.41	Evidence of Vulnerability	Adds clarification on acceptable verification to determine vulnerability.	X
3.756.12, B, D	Application Processing	Deletes "fifteen (15)" and adds "ten (10) to clarify pending timeframes. Adds "Are to be screened upon receipt to determine if the application is in emergency status. All potential emergency applications are to be pended in two (2) business days from the date of application. All regular applications..." "Adds on the following business day."	X
3.756.14	Determination of Eligibility	Deletes "fifty (50)" and adds "thirty (30)" to align with C-Stat goals for regular cases.	X
3.756.18	Withdrawn Application	Adds the option to verbally withdraw a LEAP application.	X
3.758.47, Step A	Tables: methodology for calculating heating fuel s	Revises dollar amounts.	X

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STAKEHOLDER COMMENT SUMMARY

DEVELOPMENT

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

A subcommittee comprised of LEAP county stakeholders met on March 31, 2016 to review the existing rule and recommend updates. The changes were presented to the larger LEAP county stakeholder group on April 12, 2016 and there were no changes or revisions requested.

THIS RULE-MAKING PACKAGE

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Colorado Legal Services, Economic Security Sub-PAC, Energy Outreach Colorado (EOC), Colorado Energy Office (CEO), Governor's Commission on Low Income Energy Assistance, Colorado Cross-Disability Coalition, County LEAP managers, and the County Human Services Directors Association.

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Date presented 6/2/2016.

What issues were raised? No issues were raised.

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

9 CCR 2503-7

3.750 LOW-INCOME ENERGY ASSISTANCE PROGRAMS

3.750.1 AUTHORITY

3.750.11 Low-Income Home Energy Assistance Act [Rev. eff. 12/1/14]

Programs authorized under the Low-Income Home Energy Assistance Act include a Heating Fuel Assistance Program and a Crisis Intervention Program.

3.750.12 Intent of the Heating Fuel Assistance Program [Rev. eff. 12/1/14]

The Heating Fuel Assistance Program is intended to help meet winter home heating costs of households composed of low-income families and individuals.

3.750.13 Intent of the Crisis Intervention Program [Rev. eff. 12/1/14]

The Crisis Intervention Program (CIP) is intended to assist with the repair or replacement of the non-working primary heating system of approved Heating Fuel Assistance Program applicants.

3.750.14 (None) [Rev. eff. 2/1/12]

3.750.15 Funding [Rev. eff. 9/1/11]

This program is federally and privately funded and is subject to availability of funds. If funds are increased, decreased or become unavailable, the services provided herein shall be increased, decreased or terminated accordingly.

3.751 GENERAL PROVISIONS

3.751.1 DEFINITIONS [Rev. eff. 12/1/14]

“Applicant”: The person who completes and signs the basic LEAP application form. This is also the only household member who is required to provide proof of lawful presence as defined in these rules.

“Approved Vendor” means a vendor that has signed a state specified agreement as it is prescribed in Section 3.758.46.

“Bulk Fuel”: Bulk fuel is an energy source for home heating which may be purchased in quantity from a fuel supplier and stored by the household to be used as needed. Normally, bulk fuel includes wood, propane, kerosene, coal and fuel oil.

“Completed Application”: A basic LEAP application shall be considered to be a completed application when:

- A. The applicant has provided an adequate response to all application questions which are necessary to determine eligibility and payment level;
- B. The applicant has provided all required verification. A Social Security Number (SSN) for each household member or proof of application for a SSN must be provided. A SSN is required to determine eligibility. If no SSN is provided for a household member, that member will not be included in the household, but the member’s income will be counted;

- C. The application is signed;
- D. The applicant has provided proof of lawful presence in the United States (see Section 3.753).

“Date of Application”: For purposes of the Low-Income Energy Assistance Programs, the date of application shall be the date an application form that contains a legible name and address is received by the county department.

“Disabled or Handicapped”: For purposes of the Low-Income Energy Assistance Programs, the term disabled or handicapped means persons who receive vocational rehabilitation assistance; Social Security disability, SSI, AB, AND, veterans disability payments, or who provide a physician's statement which indicates incapacity to engage in substantial gainful employment. This definition may be different for other public assistance programs.

“Elderly”: For the purposes of these rules, the term elderly means aged 60 or over.

“Eligibility Period”: There shall be one eligibility period for the Basic Low-Income Energy Assistance Programs from November 1st through April 30th. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility period shall be extended until midnight the next business day. This program is contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48.

“Emergency Applicant”: This is a household which has had heat service discontinued or is threatened with discontinuance, or is out of fuel or will run out of fuel within fourteen calendar days or the client is responsible for heating costs that are included in rent and has received an eviction notice to vacate the premises within thirty (30) calendar days.

Applications for households in these situations shall be processed expeditiously and ELIGIBILITY DETERMINED ~~the emergency addressed~~ within fourteen calendar days of notification of the emergency by the applicant to the county department.

“Estimated Home Heating Costs (EHHC)”: The amount of the heating costs incurred during the previous heating season for the applicant's address at the time of application to be used as an estimate, or projection, of the anticipated heating costs for the current heating season (November 1st through April 30th). Such estimated heating costs shall not include payment arrearages, investigative charges, reconnection fees, or other such charges not related to residential fuel prices and consumption levels. An EHHC can only be obtained from approved vendors, for all other vendors use flat rates.

“Heat Related Arrearage”: Any past due amounts for the primary heating fuel and/or supportive fuel.

“Home Heating Costs”: Charges related directly to the primary heating fuel used in a residential dwelling.

“Household”: The term “household” shall mean any individual or group of individuals who are living together as one economic unit for whom primary heating fuel is customarily purchased in common or who make undesignated payments for heat in the form of rent.

“Income Verification Period”: The income verification period is from the date of application to the same date of the prior month (approximately thirty (30) calendar days prior to date of application) when used to verify income except for earned ongoing income in accordance with Section 3.752.22, B.

“Life Threatening Crisis” means a household whose members' health and/or well-being would likely be endangered if energy assistance or repair or replacement of the primary heating system is not provided.

“Non-Bulk Fuel”: Non-bulk or metered fuel is an energy source for home heating which is provided by a utility company and is regulated and metered by the utility company. Normally, non-bulk fuel includes natural gas and electricity.

“Non-Traditional Dwelling”: A non-traditional dwelling means a structure that provides housing that is not affixed to a permanent physical address or is enumerated as such in this rule (see Section 3.752.25), including, but not limited to, cars, vans, buses, tents and lean-tos.

“Point in Time”: Point in time indicates that eligibility is determined by accounting for the circumstances of the household on the date of the application, regardless of any changes thereafter.

“Poverty Level”: The term poverty level as used in these rules describes federal guidelines updated annually by the U.S. Department of Health and Human Services. The guidelines, printed in the Federal Register, establish minimum subsistence income levels by household size.

“Primary Heating Fuel”: The primary heating fuel is the main type of fuel used to provide heat within the dwelling. When heat (such as natural gas and/or electric) is included in the rent, this may be reflected as “utilities” included in rent.

“Primary Heating Source”: The primary heating system that provides heat to the dwelling such as a furnace, wood burning stove or boiler. Temporary or portable heating sources are not considered a primary heating source and, therefore, are not eligible for LEAP assistance.

“Program Year”: means from November 1st through April 30th for the Heating Fuel Assistance Program. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility periods shall be extended until midnight the next business day. This program is contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48.

“Propane Bottles are small propane containers that hold less than one hundred (100) gallons.

“Public Assistance Income”: For purposes of verifying income under the Low-Income Energy Assistance Programs, the term public assistance income shall mean income received from the following types of Department of Human Services programs:

- A. Colorado Works;
- B. OAP (Old Age Pension, both the SSI-supplement and State-only groups);
- C. AND (Aid to the Needy Disabled, both the SSI-supplement and State-only groups);
- D. AB (Aid to the Blind, both the SSI-supplement and State-only groups);
- E. NCRA (Non-Categorical Refugee Assistance);
- F. SSDI (Social Security Disability Insurance) for clients on another state program, such as a Medicaid waiver or buy in program.

“REAPPLICATION” MEANS A HOUSEHOLD WHO HAS BEEN DENIED FOR THE CURRENT PROGRAM YEAR AND IS REAPPLYING FOR A LEAP BENEFIT. THE APPLICATION IS TO BE TREATED AS A NEW APPLICATION WHOSE POINT IN TIME IS RESET TO THE DATE OF THE NEW APPLICATION.”

“Report of Contact (ROC)” means the electronic chronological history of the case which contains both system generated entries and manual entries.

“Subsidized Housing”: Subsidized housing means housing in which a tenant receives an ongoing governmental or other subsidy (e.g., assistance provided by a church) and the amount of rent paid is based on the amount of the tenant's income.

“Supportive Fuel”: Supportive fuel is an energy source needed to operate the primary heating system in a residential setting. For example, electricity is a supportive fuel required to operate a natural gas furnace. Supportive fuels are not eligible for LEAP assistance.

“Traditional Dwelling”: Traditional dwelling means a structure that provides a housing or residential environment that is affixed to a permanent physical address.

“Vendor”: A vendor is an individual, a group of individuals, or a company who is regularly in the business of selling fuel (bulk or non-bulk) to customers for residential home heating purposes.

3.751.2 HOUSEHOLDS [Eff. 12/1/14]

- A. Any individual considered as part of an approved household cannot subsequently be considered as part of another household during the same eligibility period.
- B. Each person living at a dwelling must be counted as either a member of the applicant's household or a member of a separate household.
- C. The maximum number of household members shall be fifteen (15). The maximum number of separate households shall be nine (9).
- D. The following cannot be classified as separate households:
 - 1. Husband and wife living together;
 - 2. Children under eighteen (18) years of age and living in the same dwelling as the parent or guardian, unless emancipated;
 - 3. Individuals that enter into civil unions.
- E. A PARENT MAY BE LISTED AS A SEPARATE HOUSEHOLD WHEN RESIDING IN THE SAME DWELLING WITH THEIR EX-SPOUSE AND CHILDREN IN CASES OF LEGAL SEPARATION OR DIVORCE.

3.751.21 Permanent Separation [Eff. 12/1/14]

A married couple is considered to be permanently separated when:

- A. They are divorced or legally separated; or,
- B. Both physical and financial ties have been dissolved and a relationship as spouses no longer exists.

3.751.22 Presumption of Marriage [Eff. 12/1/14]

Unless there has been a divorce or legal separation, the presumption is made that the couple is still married. Such presumption must be refuted by persons, other than the spouses, who can establish that they are in a position to know and assert that a complete and permanent separation does, in fact, exist.

3.751.3 NON DISCRIMINATION POLICIES/RIGHT AND OPPORTUNITY TO APPLY

3.751.31 Non-Discrimination [Rev. eff. 12/1/14]

Non-discrimination policies as outlined in this rule manual shall apply to all households applying for the Heating Fuel Assistance Program.

3.751.32 Opportunity to Apply [Rev. eff. 11/1/84]

All persons shall be provided an opportunity to file an application form on the date of initial contact with the county department during the application period.

3.751.33 Interpreters [Rev. eff. 9/1/11]

An interpreter shall be available to assist persons known to the Department to be non-English speaking in completing application forms and to provide information between the applicant and the county department.

3.751.34 Authorized Representative [Rev. eff. 11/1/13]

A formal, legal authorized representative may apply on behalf of an applicant household when the applicant household is unable to apply on its own behalf. Proper legal documentation of guardianship and/or durable power of attorney must be presented.

3.751.35 Authorized Signature by Mark [Rev. eff. 12/1/14]

Applicants who are partially or totally illiterate and who cannot write their names shall make a mark, and such mark shall be witnessed by the signature of at least one witness. The address of such witness shall follow the signature. County workers may act as witnesses if not related to the applicant.

3.751.4 NOTICE AND HEARINGS

3.751.41 Timely and Adequate Notice [Rev. eff. 12/1/14]

The requirements for providing timely and adequate notice of proposed actions and opportunity for hearings and appeals are as provided in the chapter on "Administrative Procedures" in Section 3.830 (9 CCR 2503-8), except as specifically provided in the rules governing the Heating Fuel Assistance Program.

3.751.42 Denials [Rev. eff. 12/1/14]

Notices of denial shall advise the applicant of the reason for the denial, the regulation citation relied on by the county department, and appeal rights and procedures. For advance payments of the Heating Fuel Assistance Program, notices of denial shall advise the applicants of their right to a forthwith hearing.

3.751.43 Request for a State Level Fair Hearing [Rev. eff. 12/1/14]

County departments shall notify the State LEAP office in writing within seven (7) days upon receipt of a request for a State level fair hearing by an applicant on Heating Fuel Assistance Program. See Sections 3.850.1 – 3.850.56 (9 CCR 2503-8).

3.751.44 Notice of Appropriate Use of Electronic Benefit Transfer (EBT) Card [Rev. eff. 11/1/15]

An explanation shall be provided regarding the process of utilizing the Electronic Benefit Transfer (EBT) card. This explanation shall include:

- A. Identification of the following establishments in which clients shall not be allowed to access cash benefits through the electronic benefits transfer service from automated teller machines:
 - 1. Licensed gaming establishments;
 - 2. In-state simulcast facilities;
 - 3. Tracks for racing;
 - 4. Commercial bingo facilities;
 - 5. Stores or establishments in which the principal business is the sale of firearms;
 - 6. Retail establishments licensed to sell malt, vinous, or spirituous liquors;
 - 7. Establishments licensed to sell medical marijuana or medical marijuana infused products, or retail marijuana or retail marijuana products, effective June 30, 2015; and,
 - 8. Establishments that provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, effective June 30, 2015.
- B. An explanation that the cash portion issued on the EBT card may be suspended with identified misuse.

3.751.45 ELECTRONIC BENEFIT TRANSFER AND POINT OF SALE RESTRICTION

PARTICIPANTS ARE PROHIBITED FROM USING HIS/HER EBT CARD AT AUTOMATED TELLER MACHINES AND POINT OF SALE (POS) DEVICES LOCATED IN ESTABLISHMENTS AS DESCRIBED IN SECTION 3.755.44 A, 1-8.

INDIVIDUALS' TRANSACTIONS SHALL BE MONITORED MONTHLY. INDIVIDUALS WHO USE PROHIBITED ATMS OR POS DEVICES SHALL BE CONTACTED BY THE STATE DEPARTMENT. INAPPROPRIATE USAGE SHALL RESULT IN:

- 1. WARNING THAT USE OF THE EBT CARD IN PROHIBITED ESTABLISHMENTS WILL RESULT IN THE CARD BEING DISABLED. THE STATE DEPARTMENT SHALL PROVIDE EDUCATION ABOUT APPROPRIATE USE, ACCESS, AND ALTERNATIVES;
- 2. IF CONTINUED MISUSE OCCURS (IDENTIFIED IN THE USAGE REPORT AFTER A WARNING HAS OCCURRED), THE STATE DEPARTMENT WILL COORDINATE WITH THE COUNTY DEPARTMENT TO DISABLE THE CARD AND INITIATE CONTACT WITH THE INDIVIDUAL FOR ADDITIONAL ASSESSMENT.

3.751 RECOVERY AND FRAUD PROCEDURES

3.751.1. Recoveries [Eff. 12/1/14]

County departments must institute recoveries to ensure that Heating Fuel Assistance Program benefits do not exceed the maximum amounts described in these rules. Recovery procedures shall be the same as in adult program rules as described in the “Administrative Procedures” Chapter or as otherwise specified in these rules. Note: Sections 3.810.13, 3.810.14, and 3.810.32 (9 CCR 2503-8) do not apply to LEAP.

3.751.52 Determination of Recovery of Overpayment [Rev. eff. 10/1/01]

When overpayments, made directly to the client, have been verified by the county department, a determination as to whether recovery is appropriate shall be made within fifteen (15) calendar days after receipt of reports issued by the State Department designed to assist county departments in identifying and correcting such payments.

3.751.53 Definition of Overpayment [Rev. Eff. 12/1/14]

Overpayment of Heating Fuel Assistance Program benefits shall mean a household has received benefits in excess of the amount due that household based on eligibility and payment determination in accordance with these rules.

3.751.54 Establishment of Recovery [Rev. eff. 11/1/08]

Recoveries shall be established for households that have received program benefits and are subsequently determined to be ineligible or which received benefit amounts greater than the household was entitled to for the eligibility period.

3.751.55 Recovery Procedures [Rev. eff. 12/1/07]

Recovery proceedings shall be handled in accordance with the procedures described in the “Administrative Procedures” chapter of this rule manual when applicable. (Note: Sections 3.810.73 through 3.810.75 do not apply to LEAP.)

3.751.56 Penalties for Individuals Convicted of Fraud [Rev. eff. 4/1/16]

Individuals who are found guilty of committing fraud in the Low-Income Energy Assistance Program (LEAP), pursuant to Section 26-1-127, C.R.S shall be ineligible to participate in LEAP for three years following the first conviction and permanently following the second conviction.

3.751.6 REPORTING AND MONITORING

3.751.61 Reporting

All recoveries shall be reported to the State Department at the conclusion of the program year.

3.751.62 Reports and Fiscal Information [Rev. eff. 11/1/98]

County departments shall provide the State Department with reports and fiscal information as deemed necessary by the State Department.

3.751.63 Monitoring [Rev. Eff. 11/1/98]

The State Department shall have responsibility for monitoring programs administered by the county departments based on a monitoring plan developed by the State Department. Such plan shall include provisions for programmatic and local reviews and methods for corrective actions.

3.751.64 County Case File Review [Eff. 12/1/14]

County department supervisory personnel shall review eligibility determinations monthly, from October 1st to May 30th, and submit the results of those reviews when requested by the state. At minimum the supervisor shall:

- A. Pull a random sample of two determinations per technician;
- B. Determine the correctness of eligibility determinations accomplished.
- C. Ensure timely correction of any determination errors; and,
- D. Maintain a record of the cases reviewed for audit purposes.

3.751.7 REIMBURSEMENT AND SANCTIONS

3.751.71 Reimbursements [Rev. eff. 12/1/14]

Subject to allocations as determined by the State Department, county departments shall be reimbursed up to 100% for all allowable costs incurred for the operation of the Heating Fuel Assistance Program, outreach, and other administrative costs.

3.751.72 Sanctions [Rev. eff. 12/1/14]

County departments which fail to follow the rules of the Heating Fuel Assistance Program shall be subject to administrative sanctions as determined by the State Department (see 11 CCR 2508-1).

3.752 LOW-INCOME ENERGY ASSISTANCE PROGRAM: HEATING FUEL ASSISTANCE PROGRAM [Rev. eff. 12/1/14]

3.752.1 APPLICATION PERIOD [Rev. eff. 11/1/13]

To apply for LEAP, the general public shall submit a ~~written~~ State prescribed application form (IML-4) during the period of November 1st through April 30th. If April 30th for a particular calendar year falls on a holiday or weekend, then the eligibility periods shall be extended until midnight the next business day. These programs are contingent upon the continued availability of funds in accordance with Sections 3.750.15 and 3.758.48. The county department shall accept all application forms that are received or postmarked during the application period. Facsimile copies of completed application forms shall be accepted as valid. Preference shall be given to application forms received from public assistance households (such as Colorado Works, Old Age Pension (OAP), Aid to the Needy Disabled (AND), Aid to the Blind (AB), and Food Assistance). Such applications received prior to November 1st shall be accepted and may be processed; however, eligibility shall not be effective until November 1st. Application forms received or postmarked after the closing date shall be denied. Eligibility will be determined based on the applicant's circumstances on the date the application is received by the county department.

Although applications may be accepted and processed earlier, the effective date of application shall not be before November 1st.

3.752.2 PROGRAM ELIGIBILITY REQUIREMENTS [Rev. eff. 12/1/14]

To be determined eligible for a Heating Fuel Assistance Program payment, households must, at time of application, be vulnerable to the rising costs of home heating, and meet income and other requirements of the program as defined in these regulations.

The following factors shall be considered as of the date of application: Colorado state residency, U.S. citizenship/alien status, lawful presence, income, vulnerability, fuel type, household composition, shared living arrangements, dwelling type, and estimated home heating costs.

3.752.21 Countable Unearned Income [Rev. eff. 12/1/14]

Countable unearned income includes but is not limited to the following, as well as payments from any other source, which are considered to be a gain or benefit to the applicant or recipient:

- A. Inheritance, gifts, and prizes;
- B. Dividends and interest received on savings bonds, leases, etc.;
- C. Income from rental property;
- D. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness or burial that are not covered by other benefits;
- E. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care;
- F. Strike benefits;
- G. Income from jointly owned property: - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received;
- H. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received;
- I. Oil or mineral royalties received by the lessor are income in the month received;
- J. Supplemental Security Income (SSI) benefits received by an applicant or recipient shall be considered income in the month received;
- K. Income derived from monies (or other property acquired with such monies) received pursuant to the "Civil Liberties Act of 1988", P.L. 100-383;
- L. Amounts withheld from unearned income because of a garnishment are countable as unearned income.

3.752.211 Periodic Payments [Eff. 12/1/14]

The following types of periodic payments are among those included in countable unearned income:

- A. Annuities - payments calculated on an annual basis which are in the nature of returns on prior payments or services; they may be received from any source;
- B. Pension or retirement payments - payments to an applicant or recipient following retirement from employment; such payments may be made by a former employer or from any insurance or other public or private fund;
- C. Disability or survivor's benefits - payment to an applicant or recipient who has suffered injury or impairment, or, to such applicant's or recipient's dependents or survivors; such payments may be made by an employer or from any insurance or other public or private fund;
- D. Worker's compensation payments - payments awarded under federal and state law to an injured employee or to such employee's dependents; amounts included in such awards for medical, legal, or related expenses incurred by an applicant or recipient in connection with such claim are deducted in determining the amount of countable unearned income;
- E. Veteran compensation and pension - payments based on service in the armed forces; such payments may be made by the U.S. Veterans Administration, another country, a state or local government, or other organization. Any portion of a VA pension that is paid to a veteran for support of a dependent shall be considered countable unearned income to the dependent rather than the veteran.
- F. Unemployment compensation - payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment;
- G. Railroad retirement payments - payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board (RRB) to an applicant or recipient who is or was a railroad worker, or to such worker's dependents or survivors;
- H. Social Security Benefits - Old Age (or Retirement), Survivors and Disability Insurance payments (OASDI or RSDI) made by the Social Security Administration; also included are special payments at age seventy-two (72) (Prouty benefits) and black lung benefits;
- I. Supplemental Security Income (SSI) - public assistance payments made by the Social Security Administration to an applicant or recipient sixty five (65) years of age or older, or who is blind or disabled; such payments are considered in accordance with requirements specified in the applicable assistance program chapter.

3.752.212 Military Allotment [Eff. 12/1/14]

A military allotment received on behalf of an applicant or recipient for those individuals included in the budget unit shall be considered as income in the month received.

3.752.22 Income and Household Size Criteria [Rev. eff. 11/1/15]

- A. All countable unearned income shall be the countable gross unearned income received in the income verification period, not to exceed one month's income.
- B. For purposes of determining a household's eligibility, earned ongoing income shall be the countable gross income in any four (4) weeks of the eight (8) weeks prior to the application date.
- C. Determining Monthly Income

If a household member is paid less than monthly, the county department shall determine gross monthly income by:

1. Weekly/Bi-Weekly Income
 - a. Weekly Income
Adding four gross weekly income amounts to obtain total monthly income.
 - b. Bi-Weekly Income
Adding two gross bi-weekly income amounts to obtain total monthly income.
2. Semi-Monthly Income
Adding two gross semi-monthly income amounts to obtain total monthly income.
3. Partial Month Income
 - a. Terminated Income
If a household member's income is terminated as of the application date, use actual income received in the income verification period.
 - b. Earned New Income
If a household member has a new source of earned income as of the application date, use income received in the income verification period.
 - c. Unemployment/Other Unearned Income
If a household member has not received his/her first check from this source of income as of the income verification period, do not count any income from this source. If the household member has received the income as of the income verification period, use actual income for the income verification period.

4. IN-KIND INCOME IS INCOME RECEIVED IN EXCHANGE FOR EMPLOYMENT AND SHALL BE CONSIDERED AS EARNED INCOME WHOSE VALUE IS BASED ON THE SERVICES RENDERED. THE AMOUNT CONSIDERED AS EARNED INCOME WHEN A RECIPIENT IS PAID IN LIEU OF CASH IS THE DECLARED VALUE OF THE ITEM OR SERVICE PROVIDED.

D. All applicant households whose countable income for the eligibility period is one hundred sixty five percent (165%) of the federal poverty level shall meet the income requirements for the Heating Fuel Assistance Program. The State Department shall adjust the income limits annually based on funds available and the federal poverty guidelines published in the Federal Register on January 22, 2015- 25, 2016 ; no later editions or amendments are included. The following table contains the income standards:

HOUSEHOLD SIZE	MONTHLY GROSS INCOME 165% of Poverty
1	1,618 \$1,634
2	2,190 2,203
3	2,762 2,772
4	3,334 3,341
5	3,906 3,911

6	4,478 4,479
7	5,050 5,050
8	5,622 5,622
Each Additional Person	\$572

- E. Households which have been denied basic benefits and have had changes in circumstances may reapply.

3.752.23 Income Exclusions [Rev. eff. 11/1/15]

To determine eligibility for financial assistance and the amount of the assistance payment, the following shall be exempt from consideration as either resources or income:

- A. The value of food assistance and USDA donated foods;
- B. Benefits received under Title III, Nutrition Program for the Elderly, of the Older Americans Act;
- C. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for Women, Infants and Children (WIC);
- D. Home produce utilized for personal consumption;
- E. The value of any assistance paid with respect to a dwelling unit under:
 - 1. The United States Housing Act of 1937;
 - 2. The National Housing Act;
 - 3. Section 101 of the Housing and Urban Development Act of 1965;
 - 4. Title V of the Housing Act of 1949; or,
 - 5. Section 202(h) of the Housing Act of 1959.
- F. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (score) and Active Corps of Executives (ace) and any other program under Title I (Vista) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act;
- G. Compensation received by the applicant or recipient pursuant to the Colorado Crime Victims Compensation Act shall not be considered as income, property, or support available to the applicant or recipient. This is compensation paid to innocent victims or dependents of victims of criminal acts who suffer bodily injury;
- H. Monies received pursuant to the Civil Liberties Act of 1988;
- I. Any payment made from the Agent Orange Settlement Fund;
- J. The value of any commercial transportation ticket, for travel by an applicant or recipient (or spouse) among the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico,

- the Virgin Islands, Guam, American Samoa, and the northern Mariana Islands, which is received as a gift by such applicant or recipient (or such spouse) and is not converted to cash;
- K. Reparation payments made under Germany's law for compensation of national socialist persecution (German Restitution Act);
 - L. Any money received from the Radiation Exposure Compensation Trust Fund;
 - M. Reparation payments made under Sections 500 through 506 of the Austrian General Social Insurance Act;
 - N. Payments to applicants or recipients because of their status as victims of Nazi persecution;
 - O. Income paid to children of Vietnam veterans who were born with spina bifida;
 - P. All financial aid monies, including educational loans, scholarships, and grants, including work study;
 - Q. Earned income of children under the age of eighteen (18) who are residing with a parent or guardian;
 - R. Reimbursement received for expenses incurred in connection with employment from an employer;
 - S. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent gain or benefit to the household;
 - T. Payments made on behalf of the household directly to others;
 - U. Payment received as foster care income; foster care individuals are not considered LEAP household members;
 - V. Home care allowance, if paid to a non-household member;
 - W. State/county diversion payments;
 - X. Reverse mortgages;
 - Y. Subsidized housing utility allowances;
 - Z. G.I. Bill educational allowances, including housing and food allowances;
 - AA. A one-time resettlement grant received under the refugee admissions program.
 - BB. A bona fide loan is a debt that the borrower has an obligation to repay and expresses his or her intention to repay, as documented in a written agreement;
 - CC. Funds received by persons fifty five (55) years of age and older under the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act;
 - DD. Income that is deemed necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act.

- EE. MONEY RECEIVED IN THE FORM OF NON-RECURRING LUMP SUM PAYMENTS FOR INCOME TAX REFUNDS, REBATES, OR CREDITS; RETROACTIVE LUMP-SUM SOCIAL SECURITY, SSI, AND PUBLIC ASSISTANCE PAYMENTS.

3.752.24 Resources [Rev. eff. 10/1/01]

There are no resource criteria for the Low-Income Energy Assistance Program.

The value of the household's resources shall not be considered for the purpose of determining eligibility for assistance.

3.752.25 Vulnerability [Rev. eff. 11/1/15]

- A. A household shall be vulnerable in order to qualify for Heating Fuel Assistance Program benefits. Vulnerability shall mean the household must be responsible for the costs of home heating as defined below:
1. The household is paying home heating costs directly to a vendor and is subject to home heating cost increases.
 2. The household is living in non-subsidized housing and is paying home heating costs either in the form of rent or as a separate charge in addition to rent.
 3. The household resides in subsidized housing as defined in the "Definitions" Section of these rules; and, 1) the unit has an individual meter which identifies specific heating usage of that unit and the household is subject to increased cost for home heating, or 2) the tenant is subject to a heating surcharge assessed by means other than an individual meter. Such surcharges may include percentage fees assessed to the tenant for home heating. Under no circumstances shall rental costs be assumed to be subject to change due to an increase in home heating costs unless otherwise verified in writing by the county department.
 4. The applicant household in a residence where more than one household resides shall be considered vulnerable if the applicant household contributes toward the total expenses of the residence. These expenses include, but are not limited to, shelter and utilities.
 5. The applicant household must live in a traditional dwelling.
 6. Any applicant who shares a primary fuel, such as a shared natural gas meter, electric meter or propane tank, will be considered a shared household and the Estimated Home Heating Cost (EHHC) will be divided by the number of parties responsible for paying the shared heat expense.
- B. Households in the following living arrangements shall not be considered to be vulnerable:
1. Institutional group care facilities, public or private, such as nursing homes, foster care homes, group homes, ~~alcoholic~~ SUBSTANCE ABUSE treatment centers, or other such living arrangements where the provider is liable for the costs of shelter and home heating, in part or in full, on behalf of such individuals;
 2. Room and board, bed and breakfast;
 3. Correctional facilities;
 4. Dormitory, fraternity or sorority house;

5. Subsidized housing as defined in the "Definitions" section of these rules which does not have an individual check meter for heat for each unit or which cannot provide other evidence of responsibility for paying home heating surcharges;
 6. Any applicant, or applicant household who is considered homeless or resides in non-traditional dwellings;
 7. Commercial properties that also serve as the client's dwelling;
 8. Hotels, unless proof that the household has lived or will live in the hotel continuously for thirty (30) calendar days at the time of application and that heat is included in rent. Proof may be shown by providing a monthly statement, billing statement or receipt indicating the monthly arrangement.
- C. Landlords or other providers of shelter shall not be considered to be vulnerable unless they meet the definition of household and the eligibility requirements of the Heating Fuel Assistance Program.
- D. Vulnerability shall be verified for all applicant households as defined in these rules.

3.752.26 Mandatory Weatherization [Rev. eff. 12/1/14]

Households approved to receive a LEAP benefit must agree to have their dwelling weatherized if contacted by a state-authorized weatherization agency. Failure to permit or complete weatherization may result in denial of LEAP benefits for the following year.

A. Exemptions

1. Households containing a member(s) whose mental or physical health could be exacerbated by weatherization shall be exempt.
2. A household whose landlord refuses to allow weatherization shall not have benefits denied.
3. The local weatherization agency shall fully document the circumstances permitting the exemption.

B. Households Who Refuse Weatherization

1. Households who refuse or terminate weatherization before completion shall not be approved for LEAP benefits for the following year and a LEAP denial hold shall be placed on the household at that address by the State LEAP office. The hold can only be removed by the State LEAP office.
2. If the household has moved to another address that has been weatherized, the household may be approved for a LEAP benefit if otherwise eligible. If the new dwelling is not already weatherized, weatherization must be completed before approved for LEAP.
3. If a denied household subsequently allows the dwelling to be weatherized or weatherization completed, the household must reapply and, as long as other eligibility criteria are met, may be approved for LEAP benefits after notification from the local weatherization agency that the weatherization is completed.

C. State Weatherization Office Responsibilities

1. Assure that standards, as delineated in Sections A and B above are applied uniformly and equitably.
2. Notify the state LEAP office by September 30th of all households who refuse weatherization.
3. Notify households who refuse weatherization, by first-class mail that their refusal may result in denial of LEAP benefits for the following year.
4. Weatherization shall be completed as soon as possible on dwellings where the household previously refused or didn't complete weatherization and subsequently allows the dwelling to be weatherized.

3.752.27 Mandatory Crisis Intervention Program (CIP) Inspection [Eff. 12/1/14]

Households that received assistance from the Crisis Intervention Program (CIP) must agree to have an inspection of the work performed, to ensure that the equipment is safe, when contacted by a state-authorized agency. Failure to permit the inspection may result in denial of leap benefits for the following year.

A. Exemptions

1. Households containing a member(s) whose mental health concerns could be exacerbated by presence of the inspector shall be exempt.
2. A household whose landlord refuses to allow the inspector in the property shall not have benefits denied.

B. Households Who Refuse CIP Inspection

1. Households who refuse to allow the inspection shall not be approved for LEAP benefits for the following year and a LEAP denial hold shall be placed on the household at that address by the state LEAP office. The hold can only be removed by the state LEAP office.
2. If the household has moved to another address, the household may be approved for a LEAP benefit if otherwise eligible.
3. If a denied household subsequently allows the dwelling to be inspected, the household must reapply and, as long as other eligibility criteria are met, may be approved for LEAP benefits after notification from the inspecting agency that the inspection is completed.

C. State CIP Contractor's Responsibilities

The state contractor will:

1. Assure that standards, as delineated in Sections A and B, above, are applied uniformly and equitably.
2. Notify the state LEAP office by September 30th of each year of all households that refuse inspection.
3. Notify households that refuse inspection that their refusal may result in denial of LEAP benefits for the following year.

3.753 GENERAL REQUIREMENTS FOR CITIZENSHIP AND LAWFUL PRESENCE [Eff. 12/1/14]

3.753.1 CITIZENSHIP AND ALIEN STATUS [Eff. 12/1/14]

The following are citizens of the United States and are generally eligible to receive social services and public assistance.

- A. Persons born in the United States, Puerto Rico, Guam, Virgin Islands (U.S.), American Samoa, or Swain's Island;
- B. Persons who have become citizens through the naturalization process;
- C. Persons born to U.S. citizens outside the United States with appropriate documentation.

3.753.11 Verification of Citizenship in the United States [Eff. 12/1/14]

Documents that are acceptable as verification of citizenship can be found at 1 CCR 201.17, Attachment A.

3.753.111 Verification of Questionable Citizenship Information [Eff. 12/1/14]

The following shall be used in considering questionable statement(s) of citizenship from applicant:

- A. The claim of citizenship is inconsistent with statements made by the applicant, or with other information on the application, or on previous applications.
- B. The claim of citizenship is inconsistent with information received from another reliable source.

Application of the above criteria by the eligibility worker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or Native Americans shall not be targeted for special verification. The eligibility worker shall not rely on a surname, accent, or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility worker rely on a lack of English speaking, reading or writing ability as grounds to question a claim to citizenship.

3.753.12 Verification of Lawful Presence in the United States [Eff. 12/1/14]

Pursuant to Section 24-76.5-103, Colorado Revised Statutes (C.R.S.), verification of lawful presence in the United States, is required for applicants of state or local benefits, and federal benefits provided by the Colorado Department of Human Services or by the county departments of human/social services under the supervision of the State Department.

- A. For purposes of this section:

“Affidavit” means a state prescribed form wherein an applicant attests, subject to the penalties of perjury, that he/she is lawfully present in the United States. An affidavit need not be notarized.

“Applicant” means a natural person eighteen years of age or older who submits an application to receive a state or local public benefit, or a federal public benefit, on his or her own behalf.

“Application” means an initial or re-application for benefits.

“Federal public benefits” has the same meaning as provided in 8 U.S.C. Section 1611; no later amendments or editions of this section are incorporated. Copies may be available for inspection during regular business hours by contacting Colorado Department of Human Services, Food and Energy Assistance Division, 1575 Sherman Street, Denver, Colorado 80203, or any state publications library.

“Produce” means to provide for inspection either: 1) an original or 2) a true and complete copy of the original document. A document may be produced either in person or by mail.

“State or local public benefits” has the same meaning as provided in 8 U.S.C. 1621; no later amendments or editions of this section are incorporated. Copies may be available for inspection during regular business hours by contacting the Colorado Department of Human Services, Food and Energy Assistance Division, 1575 Sherman Street, Denver, Colorado 80203, or any state publications library.

B. In order to verify his or her lawful presence in the United States, an applicant must:

1. Produce and provide:

- a. A valid Colorado driver's license or a Colorado identification card issued pursuant to Article 2 of Title 42, C.R.S.; or,
- b. A United States military card or military dependent's identification card; or,
- c. A United States coast guard merchant mariner card; or,
- d. A Native American tribal document; or,
- e. Any other document authorized by rules adopted by the Department of Revenue (~~1-CCR-201-17~~) 1 CCR 204-30; or,
- f. Those applicants who cannot produce one of the required documents may demonstrate lawful presence by both executing the affidavit and executing a request for waiver. The request for waiver must be provided to the Colorado Department of Revenue in person, by mail, or online, and must be accompanied by all documents the applicant can produce to prove lawful presence. A request for a waiver can be provided to the Department of Revenue by an applicant representative.

Once approved by the Department of Revenue, the waiver is assumed to be permanent, but may be rescinded and cancelled if, at any time, the Department of Revenue becomes aware of the applicant's violation of immigration laws. If the waiver is rescinded and cancelled, the applicant has the opportunity to appeal.

The county department is responsible for verifying that the applicant is the same individual indicated as being lawfully present through the waiver.

2. Execute an affidavit saying that:

- a. He or she is a United States citizen or legal permanent resident; or,
- b. He or she is otherwise lawfully present in the United States pursuant to federal law.

3.753.13 Legal Immigrant [Eff. 12/1/14]

“Legal immigrant” means an individual who is not a citizen or national of the United States and who was lawfully admitted to the United States by the Citizenship and Immigration Services (CIS) as an actual or prospective permanent resident or whose physical presence is known and allowed by the CIS.

3.753.14 Documentation of Legal Immigrant [Eff. 12/1/14]

An alien considered a legal immigrant will normally possess one of the following forms provided by the Citizenship and Immigration Services (CIS) as verification:

- A. I-94 arrival/departure record.
- B. I-551: resident alien card I-551).
- C. Forms I-688b or I-766 employment authorization document.
- D. A letter from CIS indicating a person’s status.
- E. Letter from the U.S. Dept. of Health and Human Services (HHS) certifying a person’s status as a victim of a severe form of trafficking.
- F. Iraqi and afghan individuals who worked as translators for the U.S. military, or on behalf of the U.S. government, or families of such individuals; and have been admitted under a Special Immigrant Visa (SIV) with specific Visa categories of SI1, SI2, SI3, SI6, SI7, SI9, SQ1, SQ2, SQ3, SQ6, SQ7, or SQ9. Eligibility limitations are outlined in Section 3.710.31, I.
- G. Any of the documents permitted by the Colorado Department of Revenue rules for evidence of lawful presence (1 CCR 201-17, Attachment B).

3.753.15 Verification with Systematic Alien Verification of Entitlement (SAVE) Program [Eff. 12/1/14]

Legal immigrants applying for public assistance must present documentation from CIS showing the applicant's status. All documents must be verified through SAVE (Systematic Alien Verification for Entitlements) to determine the validity of the document.

3.753.16 Qualified Alien [Eff. 12/1/14]

A “qualified alien” is defined as follows:

- A. An alien lawfully admitted for permanent residence;
- B. An alien paroled into the United States under the Immigration and Naturalization Act (INA) for a period of at least one year;
- C. An alien granted conditional entry pursuant to Section 203(a) (7) of the INA prior to April 1, 1980;
- D. A refugee;
- E. An asylee;
- F. An alien whose deportation is being withheld;
- G. A Cuban or Haitian entrant;

- H. A victim of severe form of trafficking who has been certified as such by the U.S. Department of health and Human Services (HHS);
- I. Iraqis and Afghans granted Special Immigrant Visa status;
- J. An alien who has been battered or subjected to extreme cruelty in the U.S. by a family member;
- K. An alien admitted to the U.S. as an Amerasian immigrant;
- L. An individual who was born in Canada and possesses at least fifty percent (50%) American Indian blood or is a member of an Indian tribe;

3.753.17 Aliens and Temporary Residents Not Eligible for Assistance [Eff. 12/1/14]

The following individuals are not eligible for public assistance or social services programs:

- A. An alien with no status verification from the U.S. Citizenship and Immigration Service;
- B. An alien granted a specific voluntary departure date;
- C. An alien applying for a status; or,
- D. A citizen of foreign nations residing temporarily in the United States on the basis of Visas issued to permit employment, education, or a visit.

3.753.18 Citizenship - Lawful Presence Requirements [Eff. 12/1/14]

An applicant who does not meet lawful presence requirements or a household member who does not meet citizenship requirements shall not be included as a household member; however, all countable income of this individual shall be counted as part of the household's total income. The household's application shall not be denied due to lack of documentation regarding citizenship or lawful presence requirements if there are other household members who meet the citizenship requirements (i.e., minors born in the United States).

3.753.19 Alternate Verification of Lawful Presence [Eff. 12/1/14]

In order to verify the applicants lawful presence in the United States, a county department can use a print out from the Department of Motor Vehicle's database documenting a valid status of the applicant's Colorado driver's license or identification as verification, if it indicates that the applicant is lawfully present.

3.753.2 Residence [Eff. 12/1/14]

3.753.21 Colorado Residency [Eff. 12/1/14]

To be eligible for assistance, an applicant shall be a resident of Colorado at the time application is made. There shall be no durational residence requirement. An applicant or recipient who establishes intent to remain in Colorado shall, for public assistance purposes, is considered a current resident. "Intent to remain" may be established by any or all of the following:

- A. Acquiring by purchase, rental, or other arrangements housing facilities used as a home;
- B. Household effects, equipment, and personal belongings being located in the home or being in transit;
- C. Securing employment or engaging in other self-supporting activity based in Colorado;

- D. Parents entering children in local schools;
- E. Completing the affidavit of intent – residence form; and/or;
- F. Entering Colorado with a job commitment or in search of employment in Colorado.

3.753.22 Residency Requirements [Eff. 12/1/14]

Applicant households must meet the state residency requirements as contained in these rules. The household must reside at the address for which it applied to receive LEAP benefits.

3.754 REASONS FOR DENIAL OF ASSISTANCE [Eff. 12/1/14]

“Denial” means that an application shall be denied when the applicant fails to meet the eligibility requirements of the program. A denial also may be assessed on the basis of such factors as, but not limited to:

- A. Refusal of the applicant to furnish information necessary to determine eligibility;
- B. Applicant unwilling to have the county department contacts a collateral source to secure information and refusal of the applicant to sign the state-approved authorization for release of information form;
- C. Applicant does not supply information or otherwise fails to cooperate with the county department within the standards of promptness time limits and after having received notification of the reason for delay;
- D. Applicant moves to an unknown address before determination of eligibility has been completed;
- E. Refusal of a third party to provide documentation of essential verifications.

3.754.1 FACTORS FOR DENIAL [Rev. eff. 11/1/15]

Any of the following factors shall be the basis for the denial of an applicant household:*

- A. Excess income; 3.752.22 (04).
- B. Not vulnerable to rising home heating costs; 3.752.25 (03).
- C. Not a U.S. citizen or a qualified alien; 3.753.16 (13).
- D. A household is a duplicate household or was previously approved as part of another household; 3.751.1, “Household” (06).
- E. The household has voluntarily withdrawn its application; 3.756.18 (09).
- F. The household has received Heating Fuel Assistance Program benefits from another county; 3.756.17 (10).
- G. The household has failed to provide complete application information or required verification; 3.756.12 (11).
- H. The household is not a resident of Colorado; 3.752.26 (07).
- I. The household failed to sign the application form; 3.751.1, “Completed Application”, C (21).

- J. The household filed an application outside of the application period; 3.752.1 (14).
- K. Unable to locate the applicant; 3.756.19 (25).
- L. Refused weatherization services from a state weatherization agency; 3.752.28 (26).
- M. The applicant failed to provide valid identification; 3.753.11, B, 1 (05).
- N. The applicant failed to provide an affidavit; 3.753.11, B, 2 (08).
- O. The applicant failed to provide valid identification; 3.753.11, B, 1, and the applicant failed to provide an affidavit; 3.753.11, B, 2 (18).
- P. Non-traditional dwelling; 3.751.1 (23).
- Q. The household does not reside at the address for which it applied to receive benefits; 3.752.26 (24).
- R. LEAP can only assist with the primary heating fuel for the primary heating source; 3.751.1 (22).
- S. The applicant household refused a bulk fuel delivery, thereby relinquishing the benefit; 3.751.54 (28).
- T. The household refused inspection of the Crisis Intervention Program work; 3.752.27 (27).
- U. THE APPLICANT HAS BEEN FOUND GUILTY OF FRAUD; 3.751.56 (27)

(*Note: The rule citation is shown followed by the denial reasons which are to be used when coding the worksheet and data entering into the computer system.)

3.754.11 Appropriate Reason for Denial [Eff. 12/1/14]

The county department shall use the most appropriate reason for denial; if the county department is unclear as to the most appropriate reason for denial, it shall consult the State Department.

3.754.12 Notice of Denial [Eff. 12/1/14]

A notice of denial shall be provided to the applicant within seven (7) calendar days of the decision; the state will provide the notices to the county department for distribution.

3.755 VERIFICATION POLICIES AND CASE RECORD DOCUMENTATION

3.755.1 GENERAL

3.755.11 Verification in Determining Initial Eligibility and Payment Amount [Rev. eff. 12/1/14]

Income, estimated home heating costs, and vulnerability shall be verified in determining initial eligibility and/or payment amount. If a household applied during the prior LEAP program year and there are no changes in the applicant, address and fuel provider, vulnerability and lawful presence (provided that IDs are valid in accordance with Section 3.753) may be copied from the prior year case file and provided in the current case file.

3.755.12 Conflicting Information [Rev. eff. 12/1/14]

If the county obtains information which would affect the initial determination of an applicant household's eligibility or payment level and which is different than information provided by the applicant, the county shall inform the applicant and provide an opportunity for response or explanation. Eligibility shall be determined by using the correct information. In these cases, an applicant who meets eligibility criteria shall not be denied because the applicant provided information that was different than information subsequently obtained by the county. Information used to determine eligibility and benefit level shall be documented in the system. However, in appropriate cases, the counties may institute fraud proceedings.

3.755.13 Case Record [Rev. eff. 12/1/14]

The case record shall contain at a minimum:

- A. The application and any other supplemental forms the applicant is required to submit;
- B. Documentation of all verification as required in these rules;
- C. Written explanation on the report of contact of any discrepancy between information contained on the application and information in the LEAP system;
- D. Calculations used to compute income, documentation of the source of estimated home heating costs and any other written notations on the report of contact necessary to provide a clear and adequate record of action taken on the case. The eligibility workers shall date and initial each entry.
- E. Documentation of all written notices sent to the applicant household requesting missing information and/or verification necessary to determine eligibility and/or payment level.
- F. Complete documentation in emergency or expedited cases including when, to whom, and how a vendor and/or client contact is made.
- G. All historical data used must be present in the file and documented in the Report of Contact (ROC).

3.755.14 Written Policy [Eff. 12/1/14]

Each county department shall develop a written policy stipulating the order of the case record, and the content of all records in that county department shall be filed according to that county department policy. The county department must stipulate that case record material must be fastened to the file folder in order to secure the information and maintain the filing order.

3.755.15 County Storage of Records [Eff. 12/1/14]

The county department shall be responsible for the provision of a safe place for storage of case records and confidential material. If a county department shares building space with other county offices, locked files to store case material shall be used. Janitors and other maintenance personnel shall be instructed concerning the confidential nature of information.

3.755.16 State Authority Required for Removal of Case Records [Eff. 12/1/14]

Case records are the property of and shall be restricted to use by the State Department and county department. Only on authority of the State Department may case records be removed from the office of the county department.

3.755.17 Archiving Case Files [Eff. 12/1/14]

The county department shall archive three (3) program years plus the current program year files and make them available to the State upon request.

3.755.2 VERIFYING INCOME

3.755.21 Adequate Verification of Income [Rev. eff. 11/1/15]

The case record shall contain adequate verification of income. Adequate verification is defined as any of the following:

- A. Unearned income, such as pensions or retirement income, veteran's benefits, worker's compensation, unemployment or supplemental security income shall be verified in writing, such as an award letter or cost of living adjustment (COLA) letter, issued after the last general increase for that type of assistance, which shows the gross amount before any deductions. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Copies of bank deposits or checks shall not be adequate verification of gross income.
- B. Verification of child support income shall include at a minimum:
 - 1. Verification through the Automated Child Support Enforcement System (ACSES); or,
 - 2. Verification through the Family Support Registry (FSR); or,
 - 3. Copies of checks, money orders or other document(s) including written statements or affidavits from the non-custodial parent that documents the income paid directly to the custodial parent.
 - 4. An exception shall be made in cases of domestic violence as defined in Section 18-6-800.3(1), C.R.S., when the applicant provides evidence from a court or participation in the state's Address Confidentiality Program (ACP) pursuant to Section 24-30-2104, C.R.S. Client declaration shall be sufficient in such cases.
- C. Social Security income may be verified by an award letter, issued by the social security administration, after the last general increase. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Gross Social Security income includes income before any deductions for Medicare or other medical insurance. Copies of bank deposit or checks shall not be adequate verification of gross Social Security income.
- D. Earned ongoing income shall be verified for at least four (4) weeks of the eight (8) weeks prior to the application date and shall consist of pay stubs or statements from employers which state the period worked, pay frequency and the actual gross income earned.
- E. Public assistance income shall be verified through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income information via federal and/or state system inquiries (i.e., a copy of applicable CBMS screens).
- F. Verification of income other than public assistance income of applicant households may be obtained through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income verification (i.e., source document name and/or number and document date).

- G. Verification may be obtained by collateral contact, provided that the case record contains complete information on the name and title of the person contacted, the name of the employer or agency, the period of employment and the actual gross income received, earned or unearned.
- H. In verifying zero income, the county shall examine income of all adult members of the household by using the Department of Labor and Employment (DOLE) verification system and one or more of the following methods:
 - 1. Obtain a reasonable explanation in writing from the household on how they meet living expenses;
 - 2. Verify final date of employment with last employer;
 - 3. Colorado Benefits Management System (CBMS).
- I. Verification of self-employment income shall include, at a minimum:
 - 1. Profit and loss statements, i.e., self-employment ledger; and,
 - 2. Receipts for business-related expenses are required in order to be considered as deductions:
 - a. Rent or mortgage is not an allowable expense when the applicant is operating a business from his or her residence.
 - b. Utilities, data and phone bills including cell phones are not allowable expenses when the account is in the name of an individual.
 - c. Fuel expenses are allowable for vehicles used solely for business and for individuals who use personal vehicles that are directly related to the work and necessary to conduct business. The county may accept gas receipts and/or documentation of mileage for those vehicles that are not used solely for business. If using a mileage log, the deduction is then based on the number of miles times the county's established reimbursement rate.
 - 3. Credit card and bank statements are not allowable receipts for business related expenses.
- J. Owners of LLC's or S-Corps are considered employees of the corporation and therefore cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be counted as regular earned income, not self-employment income.

3.755.3 (None)

3.755.4 VULNERABILITY

3.755.41 Evidence of Vulnerability [Rev. eff. 11/1/13]

All households shall be required to provide evidence of vulnerability for the primary heating fuel for the residence at the time of application. Evidence shall consist of items, such as a copy of the current or most recent fuel bill that the household is responsible for paying. THE FUEL BILL IS NOT TO EXCEED ONE

(1) YEAR PRIOR TO THE DATE OF APPLICATION. COLLATERAL CONTACT WITH A VENDOR IS ALSO ACCEPTABLE TO ESTABLISH VULNERABILITY AND IS TO BE DOCUMENTED IN THE REPORT OF CONTACT (ROC). ~~or a~~ A copy of the current or previous month's rent receipt if heat is included in rent IS ALSO ACCEPTABLE. In instances where a rent receipt is used to provide proof of vulnerability, the rent receipt must specifically notate that heat and/or utilities are included in rent. A lease or rent statement from the applicant's landlord is required if the rent receipt is not specific. The county may use prior year's fuel bill if the information supplied matches the current application/information. If historical information is being used to verify vulnerability, a notation must be made in the case record. If the fuel bill that is submitted as evidence of vulnerability is in the name of a person other than the applicant household, the case record shall contain a notation that explains the discrepancy in names.

3.755.42 Subsidized Housing Rent Documentation [Rev. eff. 11/1/13]

Applicant households living in subsidized housing units shall be required to provide documentation specifying that the household is subject to heating surcharges when home heating usage exceeds the amount of the household's heating allowance, within the current LEAP program year, or evidence of a separate heating bill.

3.755.43 Wood Permits [Rev. eff. 6/1/09]

Applicants who cut their own wood shall be required to provide a copy of their wood cutting permit. If a permit is not available, the applicants must provide a written and signed statement that they cut their own wood, plus documented proof that they cut it on their own land or that they have permission from the landowner.

3.755.44 Wood Purchase [Eff. 12/1/14]

Applicants who use wood as their primary heating fuel must provide a receipt from a wood vendor. Receipts must include the vendor's name, address, telephone number, date and the name and address of the buyer; it must also contain the amount of wood purchased, the date of the purchase and the cost.

3.755.45 Propane Purchase/Other Bulk Fuels [Eff. 11/1/15]

Applicants who use propane or other bulk fuels, referred to in definitions in these rules, as their primary heating fuel must provide a receipt or statement from their vendor. Receipts must include the vendor's name, address, telephone number, date, and the name and address of the buyer, amount of fuel purchased, the date of the purchase, and the cost.

Applicants, who utilize propane bottles, as described in definitions in these rules, are required to provide a copy of a receipt of purchase only from a retail store or other propane provider.

3.755.5 ESTIMATED HOME HEATING COSTS

3.755.51 Verification [Rev. eff. 11/1/15]

County departments shall obtain verification of estimated home heating costs. Verification shall consist of evidence provided by the approved LEAP fuel vendor for the residence at the time of application.

If the county changes the Estimated Home Heating Costs (EHHC) originally provided by the fuel vendor, the county must obtain written verification of this change from the fuel vendor. The written verification from the vendor shall be placed in the case record.

3.755.6 OTHER FACTORS AFFECTING ELIGIBILITY AND PAYMENT AMOUNTS [Rev. eff. 9/1/11]

Other factors affecting eligibility and payment amounts of an applicant household may be verified if determined necessary.

3.756 PROCEDURES FOR PROCESSING APPLICATIONS AND NOTIFYING APPLICANT HOUSEHOLDS

3.756.1 PROCEDURES

3.756.11 Application [Rev. eff. 12/1/14]

Heating Fuel Assistance Program applicants shall submit a completed application form as defined in the "Definitions" section 3.751.1 of these rules to the county department in order to be considered for Heating Fuel Assistance Program benefits. The county department shall not require office interviews for purposes of determining eligibility.

3.756.12 Application Processing [Rev. eff. 11/1/13]

- A. The county department shall be required to date stamp all application forms, verification, and information upon receipt.
- B. Beginning November 1st, all applications ARE TO BE SCREENED UPON RECEIPT TO DETERMINE IF THE APPLICATION IS IN EMERGENCY STATUS. ALL POTENTIAL EMERGENCY APPLICATIONS ARE TO BE PENDED IN TWO (2) BUSINESS DAYS FROM THE DATE OF APPLICATION. ALL REGULAR APPLICATIONS must be entered into the LEAP database in a pending status within ~~fifteen (15)~~ TEN (10) business days from the date the application is received in the county LEAP office. All applications received within the eligibility period must be added and either approved or denied no later than June 19th.
- C. The county department shall be required to review for duplicate applications. The county department shall determine if an application is complete as defined in the "Definitions" section of these rules. If an application is not complete, the county department shall notify the applicant household, in writing through a LEAP system-generated letter, of information or verification necessary to determine eligibility and/or payment level.
- D. The applicant household shall be provided two (2) calendar weeks from the date the notice is postmarked to provide the requested information and/or verification. Clients who fail to submit the required verification shall be denied ON THE FOLLOWING BUSINESS DAY. However, the county department may extend the period for submission by the applicant of the information requested by the county department to complete the application upon a showing of good cause for the applicant's failure to provide the necessary information or verification within the two (2) week period. The extended period shall not exceed two weeks. The term "good cause" as used above is defined as conditions outside the control of the individual such as sudden illness, hospitalization, fire, theft, acts of God, and natural disasters.

3.756.13 Lost Applications [Rev. 11/1/13]

If a household reports to the county that it has mailed or otherwise made application for basic benefits and the county department cannot locate the application for the household, such application shall be deemed "lost". The procedures for handling "lost" applications shall be prescribed by the State Department. The client must notify the county of the lost application no later than thirty (30) calendar days from the submission date.

3.756.14 Determination of Eligibility [Rev. eff. 11/1/93]

A county department shall have up to ~~fifty (50)~~ THIRTY (30) calendar days from the date of application as defined in the "Definitions" section of these rules to determine eligibility.

3.756.15 Notification of Approval or Denial [Rev. eff. 10/1/01]

Upon determination of eligibility, the household shall be notified in writing of approval or denial in accordance with the notice requirements in these rules.

3.756.16 County of Residence [Rev. eff. 10/1/09]

The county of residence for applicant households shall be the county where the applicant household is residing as of the date of application. An application received from a non-resident of the county shall be forwarded to the county of residence within five (5) working days. Processing time begins upon receipt of the application by the county of residence. The county forwarding the application shall, simultaneously, notify the applicant household, in writing, of the name, address, and phone number of the county to which the application was forwarded.

3.756.17 Relocation [Rev. eff. 11/1/94]

If an approved household moves from one county to another within Colorado, the original county of residence in which eligibility was determined, shall remain responsible for processing that case throughout the program year. The new county of residence shall provide assistance to the case processing county as requested. If an applicant then applies in the new county of residence, the application shall be denied, and the applicant notified that benefits will be paid by the original county.

3.756.18 Withdrawn Application [Rev. eff. 11/1/08]

An applicant who voluntarily withdraws his/her application ~~in writing~~ prior to eligibility being determined shall be denied. The applicant ~~must~~ MAY notify the county EITHER in writing OR VERBALLY that they are voluntarily withdrawing their application. VERBAL NOTICE MUST BE DOCUMENTED IN THE REPORT OF CONTACT (ROC).

3.756.19 Unlocated Applicant [Rev. eff. 10/1/09]

An applicant who cannot be located prior to eligibility being determined shall be denied. The county must attempt to locate the applicant by mailing a forwardable letter to the last known address. If the applicant does not respond within fifteen (15) business days, the application shall be denied.

3.756.2 ADVANCE PAYMENT OF THE HEATING FUEL ASSISTANCE PROGRAM BENEFIT (applicable only when a signed Vendor Agreement has not been secured) [Rev. eff. 12/1/14]

- A. A shut-off notice or other documentation of intent to terminate heating services by the heating supplier or landlord or that termination of service has occurred; or,
- B. For households that use bulk fuel, a written declaration by the household that the fuel supply has been or will be depleted within the next two weeks and the specific amount needed to maintain heat in the home until payroll runs.
- C. For households where heat is included in rent, an eviction notice and a written statement from the landlord that the client will not be evicted for thirty (30) days if request for advance of the payment is accepted.

For purposes of advance payment, notices of denial shall advise the applicants of the reason for denial, appeal rights and procedures including, but not limited to, a hearing.

3.757 PROCEDURE FOR REPORTING ELIGIBILITY AND PAYMENT INFORMATION

3.757.11 [Rev. eff. 9/1/11]

The county will be required to correct any inaccuracies as they may result in an erroneous payment amount and/or incorrect eligibility determination. Information reported on the household's income, family size, estimated home heating costs, subsidized housing heat allowance, and number of separate households is the basis for the amount of LEAP benefit.

3.757.12 [Rev. eff. 9/1/11]

County departments shall enter completed applications into the LEAP automated system as eligibility is determined.

3.758 PAYMENT POLICIES

3.758.1 (NONE)

3.758.2 (NONE)

3.758.3 CHANGES IN HOUSEHOLD COMPOSITION AFFECTING ISSUANCE OF PAYMENT

3.758.31 Change in Household Circumstances [Rev. eff. 12/1/14]

If, prior to payment, an eligible household's circumstances change, which involves separation or divorce of a marriage or common law arrangement, and the household includes dependent children, the Heating Fuel Assistance Program payment(s) shall be provided to the parent or guardian who resides with and has the responsibility for the care of the dependent children.

If the household does not include dependent children, the Heating Fuel Assistance Program payment(s) shall be paid to the person listed as applicant.

3.758.32 Death of Payee Affecting Issuance of Payment [Rev. eff. 12/1/14]

When the payee for a Heating Fuel Assistance Program benefit dies, any payment to which the payee was entitled shall be kept available according to the following rules:

- A. The surviving spouse or other household member shall be entitled to the Heating Fuel Assistance Program payee's benefit provided that the surviving spouse or other household member was included as part of the Heating Fuel Assistance Program payee's household upon Heating Fuel Assistance Program eligibility determination.
- B. In the case of a single member household client payment, the payment will expunge after three hundred sixty-five (365) days. In the case of a single member household vendor payment, the vendor will follow the process outlined in the vendor agreement.

3.758.4 PAYMENT METHODS

3.758.41 Heating Fuel Assistance Program Payment [Rev. eff. 12/1/14]

For an approved household which pays home heating costs directly to a fuel vendor, payment shall be made as a vendor payment, provided a written vendor agreement has been secured. The State

Department shall be required to provide vendors servicing their county with an opportunity to sign the state prescribed vendor agreement. County departments shall provide vendors with applications, brochures, envelopes, and other outreach material. In cases where a written vendor agreement has not been secured, payment shall be issued directly to the eligible household.

For an approved household that pays home heating costs to a landlord, payment of the Heating Fuel Assistance Program payment shall be made directly to the eligible household. Under no circumstances shall a direct payment be made to a landlord.

3.758.42 - 3.758.45 (None)

3.758.46 Vendor Payment Procedures [Rev. eff. 12/1/14]

- A. When a direct vendor payment is made, the county department shall be required:
1. To notify each household of the amount and month such assistance is scheduled to be paid on its behalf,
 2. To notify the household of the vendor to be paid on the household's behalf,
 3. To contact the vendor to explain the vendor payment process, when applicable.
 4. To notify each eligible household in writing of the eligible household's responsibilities to continue to pay toward the household's heating costs. Such notification shall advise the household that the Heating Fuel Assistance Program payment is not intended to totally pay a household's heating costs.

If the household has received a notice from the vendor to terminate services or has already had services terminated, the household is responsible to negotiate a payment arrangement with their vendor.
 5. To notify the vendor in writing of each household's eligibility and projected payment amount.
- B. Prior to any Heating Fuel Assistance Program payment being made directly to a fuel vendor on behalf of an eligible household, the following terms of agreement shall be obtained from the fuel vendor in writing and notice of the same shall be included with the Heating Fuel Assistance Program payment in accordance with a State prescribed form. Any revision or modification of the assurances below, necessitated by unique circumstances, shall be submitted in writing to the State Department for approval prior to execution of the vendor agreement.
- C. Refer to the State approved vendor agreement for specific requirements, conditions and procedures. This agreement is available on the Colorado Department of Human Services web site at www.colorado.gov/CDHS/LEAP.

3.758.47 Methodology for Calculating Heating Fuel Assistance Program Benefits [Rev. eff. 11/1/15]

The payment amount for an eligible Heating Fuel Assistance Program household shall be determined in accordance with the following method:

Step A. Determine Estimated Home Heating Costs (EHHC)

The county department shall determine estimated home heating costs for November 1st through April 30th for the household's current residence at the time of application. The methodology for calculating estimated home heating costs is outlined below.

The county department shall determine the applicant household's estimated home heating costs as follows:

1. An applicant household's estimated home heating cost shall consist of the total actual home heating costs for the primary heating fuel for November 1st through April 30th, of the prior year's heating season. Vendors serving applicant households shall be required to supply actual home heating costs for November 1st through April 30th of the prior year's heating season.
2. For any applicant whose home heating costs for the prior year's heating season are not available or determined by the county department to be invalid, the county department shall use the flat rate amount. The State Department shall adjust the flat rate amounts annually based on the average actual home heating costs found in the LEAP system by dwelling type for the prior year's heating season contained in the following table:

	NAT. GAS	PROPANE FUEL OIL	ELEC.	WOOD	COAL	PROPANE BOTTLES	WOOD GATHERING
House, Mobile Home	\$507 \$481	\$1,215 \$986	\$1,333 \$1,239	\$784 \$614	\$482	\$384	\$200
Duplex, Triplex, Fourplex, Townhouse	\$402 \$375	\$1,197 \$710	\$1,007 \$ 882	\$582	\$482	\$341	\$200
Apartment, Condominium, Hotel, Cabin	\$298 \$277	\$900 \$850	\$716 \$ 640	\$582	\$482	\$341	\$200
Camper, 5th Wheel	\$384 \$381	\$970 \$689	\$ 762	\$560	\$432	\$499	\$200

3. The State Department shall adjust the standard rates for heating costs that are included in rent annually based on the flat rate amounts adjustment contained in the following table:

	NATURAL GAS	PROPANE FUEL OIL	ELECTRIC	WOOD	COAL
House, Mobile Home	\$203 \$192	\$486 \$394	\$533 \$496	\$313 \$246	\$ 193
Duplex, Triplex, Fourplex, Townhouse	\$119 \$150	\$479 284	\$403 \$353	\$ 233	\$ 193
Apartment, Condominium, Hotel,	\$119 \$111	\$360 \$340	\$286 \$256	\$ 233	\$ 193
Cabin, Camper, 5th Wheel, RV	\$240 \$152	\$388 \$276	\$ 305	\$ 224	\$ 173

Step B. Initial Statewide Adjustment

The state LEAP office will adjust benefit levels at the beginning of each LEAP program year based upon the projected number of leap applications to be received and the estimated level of

funding. Annually, this calculation determines the percentage of the estimated home heating costs (EHHC) of the applicant household to be adjusted.

Step C. Adjustment for Electric Heat

Households using electric heat will have their electric usage costs reduced to the percentage amounts listed below.

<u>HEAT PORTION OF TOTAL ELECTRIC EHHC</u>	
House/mobile home	62% for heat
Townhouse / duplex / triplex / fourplex	48% for heat
Apartment, condominium, hotel, rooming house	43% for heat
Cabin, RV, 5th wheel, camper	50% for heat

Step D. Adjustment for Shared Living Arrangements

The estimated home heating costs shall be adjusted if the household shares living arrangements with other households but is determined to be a separate household as defined in the "Definitions" section of these rules. If the household shares living arrangements with other households, the estimated home heating cost shall be divided by the number of separate households sharing the living arrangements, whether or not all households sharing the living arrangements are eligible for the Heating Fuel Assistance Program.

Step E. Adjustment for Subsidized Housing Home Heating Allowance

The State Department shall adjust the amount of estimated home heating cost remaining after Step B if the household resides in subsidized housing (as defined in the "Definitions" section of these rules). A flat rate rental cost allowance for heating (\$30 per month or \$180 per heating season) shall be deducted from the remaining amount of estimated home heating costs. If the household does not live in subsidized housing, the amount remaining after Step B shall be the estimated home heating cost.

Step F. Determine Heating Fuel Assistance Program Amount

The State Department shall determine a benefit amount for each eligible household by subtracting the applicable adjustments listed above, in Steps B-E from the household's estimated home heating costs (EHHC) determined in Step A, 1-3. Any eligible household will receive at least the minimum, up to and including, the maximum benefit amount established by the Department for the LEAP program year.

3.758.48 Adjustments [Rev. eff. 9/1/11]

The State Department will provide the county departments advance written notice of any statewide benefit level adjustments.

Any statewide adjustment to the LEAP benefit level cannot be appealed.

The benefit amount in a prior LEAP program year is not indicative of a current LEAP program year benefit amount and benefit levels may vary from program year to program year depending on funding and the applicant pool.

3.758.49 Forfeiture of Benefit [Eff. 11/1/98]

If the benefit is not properly claimed within the current federal fiscal year for the period of intended use, the household will forfeit the remaining benefit.

3.759 OUTREACH AND REFERRAL

3.759.1 COUNTY DEPARTMENTS

3.759.11 Operation [Rev. eff. 12/1/14]

The county department has responsibility for the operation of a county wide outreach program. The outreach program shall be operated in accordance with guidelines contained in this section. The county may opt to contract with other agencies to perform all or part of the required outreach activities. Counties must assure that outreach includes:

- A. Coordination with other agencies, organizations, and groups to facilitate the participation of potentially eligible persons with emphasis on most vulnerable (e.g., elderly, disabled, home bound, non-English speaking);
- B. Access to Heating Fuel Assistance Program information and application forms. Outreach staff must identify locations in the county, such as community action programs, Social Security offices, low income housing sites, etc., for distribution of information, taking of applications, etc., through these sites. In addition, the county must have sufficient telephone lines to ensure access to information without requiring office visits;
- C. An effective county wide information and referral system involving local agencies and organizations;
- D. A referral system to weatherization and other energy conservation programs in the county;
- E. Special efforts to meet the needs of target groups (e.g., home visits for home bound, out stationing of outreach staff, etc.). County departments shall assist disabled and elderly (as defined in the "Definitions" section of these rules) applicants in completing applications and securing the required verification;
- F. Regular communications with cooperating agencies to identify concerns, problems, etc.;
- G. Encourage utility companies to refer their customers to the county departments.

3.759.12 Outreach Plan [Rev. eff. 11/1/03]

The county department shall develop an outreach plan which describes specific activities the county will perform to carry out the specific responsibilities outlined in 3.759.11, above. The plan shall be available for public inspection at the county department.

3.759.13 Reporting Requirements

County departments shall comply with outreach reporting requirements as prescribed by the State Department. Failure to comply may result in the recovery of outreach funds.

3.759.2 OUTREACH ACTIVITIES

3.759.21

Outreach materials shall be distributed to various community agencies targeting groups such as elderly, persons with disabilities, veterans, migrant seasonal workers, renters, Native Americans, and non-English or limited English speaking communities.

3.759.3 (None) [Rev. eff. 2/1/12]

3.759.4 WEATHERIZATION REFERRAL

3.759.41 [Rev. eff. 11/1/83]

Eligible households shall be referred for participation in weatherization, energy conservation and other related assistance upon the household's request.

3.760 (NONE) [Rev. eff. 9/15/12]

3.770 ALLOCATION FOR ADMINISTRATION AND OUTREACH [Rev. eff. 11/1/96]

The county may transfer funds from Program Code 4510 Administration to Program Code 4520 Outreach. The county may not transfer funds from Program Code 4520 Outreach to Program Code 4510 Administration.

The county is to budget its allocation of funds for Program Code 4510 Administration and Program Code 4520 Outreach to cover all expenditures which may be incurred from October 1 to the following September 30. The county department shall not be reimbursed for expenditures in excess of the county's allocation of Program Code 4510 and Program Code 4520 funds. The county's allocation of Program Code 4510 Administration funds will not be increased unless the State Department allocates additional funds to all counties or unless the county meets the following criteria:

- A. The county submits a written letter of request which includes the county's original budget plan for expenditure of its allocation of administrative funds, a description of expenditures to date for administrative costs, a budget of anticipated costs for the remainder of the program, and a narrative justification of actual and anticipated expenditures for the program.
- B. The request for additional funds must be justified on the basis of one or both of the following factors:
 - 1. That the county incurred or expects to incur extraordinary costs which were or are beyond county control and were or will be necessary to implement the program:
 - 2. That the county's caseload in relation to its allocation of administrative funds was significantly greater than the caseload of other similar sized counties in relation to their allocation of administrative funds.

Actual provision of additional funds is contingent upon availability of administrative funds.

The county's allocation of Program Code 4520 Outreach funds shall not be increased unless the county submits a request for additional outreach funds,

which explains and justifies the need for such funds or unless the state department allocates additional funds to all counties.

Editor's Notes

Primary sections of 9 CCR 2503-1 have been recodified effective 09/15/2012. See list below. Versions and rule history prior to 09/15/2012 can be found in 9 CCR 2503-1. Prior versions can be accessed from the All Versions list on the current rule page.

Rule section 3.000 – 3.100, et seq. has been recodified as 9 CCR 2503-1, GENERAL RULES.

Rule section 3.200, et seq. has been recodified as 9 CCR 2503-2, GENERAL FINANCIAL ELIGIBILITY CRITERIA.

Rule section 3.300, et seq. has been recodified as 9 CCR 2503-3, OLD AGE PENSION.

Rule section 3.400, et seq. has been recodified as 9 CCR 2503-4, AID TO THE NEEDY DISABLED AND AID TO THE BLIND.

Rule section 3.500, et seq. has been recodified as 9 CCR 2503-5, (Reserved for Future Use).

Rule section 3.600, et seq. has been recodified as 9 CCR 2503-6, COLORADO WORKS PROGRAM.

Rule section 3.700, et seq. has been recodified as 9 CCR 2503-7, OTHER ASSISTANCE PROGRAMS.

Rule section 3.800, et seq. has been recodified as 9 CCR 2503-8, ADMINISTRATIVE PROCEDURES.

Rule section 3.900, et seq. has been recodified as 9 CCR 2503-9, COLORADO CHILD CARE ASSISTANCE PROGRAM.

History

Sections 3.750.12-13, 3.751.1, 3.751.31, 3.751.41-43, 3.751.51, 3.751.53, 3.751.71-72, 3.752.1, 3.752.22-23, 3.754.1, 3.756.2 eff. 09/15/2012. Section 3.760-3.760.53 repealed eff. 09/15/2012.

Sections 3.744.F-G, 3.746.A-F, emer. rules eff. 11/09/2012.

Sections 3.720, 3.721.22, 3.744.A-B emer. rules eff. 02/01/2013.

Sections 3.744.F-G, 3.746. A-F eff. 03/02/2013.

Sections 3.720-3.720.32, 3.721.22, 3.744.A-B eff. 05/01/2013.

Sections 3.751.1, 3.751.34, 3.752.1-3.752.22.E, 3.752.25, 3.754.1, 3.754.1.K, 3.755.13-3.755.42, 3.756.12-3.756.13, 3.756.2, 3.758.1, 3.758.47 eff. 11/01/2013.

Sections 3.700, 3.720-7.746 eff. 03/02/2014.

Sections 3.750-3.751.53, 7.751.6-3.756.11, 7.756.2-7.759.13 eff. 12/01/2014.

Sections 3.751.44, 3.751.56, 3.752.22, 3.752.22.D, 3.752.23, 3.752.23.P-DD, 3.752.25, 3.754.1, 3.754.1.C, 3.755.21, 3.755.21.A, 3.755.21.B.4, 3.755.21.I.3, 3.755.45, 3.755.51, 3.758.47, 3.758.47 Step A.2-3 eff. 11/01/2015.

Section 3.751.56 eff. 04/01/2016.

Annotations

Rule 3.751.44 (adopted 10/03/2014) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.