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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

Summary

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35 and currently authorized through FY2004, is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. The statute authorizes appropriations for both regular LIHEAP grants, which are allotted to all states based on a three-tier formula, and for contingency funds, which are allotted at the Administration's discretion and based on an emergency need.

The FY2003 regular LIHEAP funding level was \$1.788 billion (P.L. 108-7); there were no new contingency funds appropriated and currently no contingency funds are available for release. In January 2003, HHS released \$200 million in LIHEAP contingency funds (available from an FY2001 supplemental appropriation bill P.L. 107-20) in response to increased home heating oil prices. All states received a part of these contingency funds, which were primarily allocated in the same manner as regular program funds. On July 10, 2003 the House approved legislation (H.R. 2660) recommending \$1.7 billion in regular LIHEAP funds and an additional \$100 million in LIHEAP contingency funds for FY2004. On September 10, 2003 the Senate approved an amended H.R. 2660, appropriating \$2 billion for LIHEAP, all of which would be for regular LIHEAP allotments. In his FY2004 budget, President Bush also called for \$2 billion in total LIHEAP funding, however his request specified that of this amount \$1.7 billion would be for regular fund allotments and \$300 million for contingency funds. As of October 16, 2003, H.R. 2660 is in conference between the House and the Senate in order to resolve differences.

On April 10, 2003 the House passed its version of the Energy Policy Act of 2003 (H.R. 6). The House bill would raise the regular LIHEAP funds authorization to \$3.4 billion through FY2006. In addition it would authorize bonus payments received by the federal treasury for leasing the Arctic National Wildlife Refuge to be appropriated for additional LIHEAP funding, and would require HHS to prepare a report for Congress on how LIHEAP could more effectively prevent loss of life from extreme temperatures. According to the committee report accompanying the bill, this provision is expected to assist HHS in developing a "more accurate" formula for the distribution of LIHEAP funds.

On July 31, 2003, the Senate suspended debate on the Energy Policy Act (S. 14). That same day, the Senate passed H.R. 6 with an amendment that replaced the language in the House version of H.R. 6 with the text of the energy bill the Senate had passed in 2002 (H.R. 4, 107th). This included authorization of \$3.4 billion for FY2003 through FY2005. As of October 16, 2003, H.R. 6 is in conference between the House and the Senate in order to resolve differences.

This report provides background on LIHEAP and will be updated as significant program events or legislative activities occur.

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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

Introduction

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35 and currently authorized through FY2004, is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. The most current Department of Health and Human Services (HHS) data show an estimated 4.8 million households received winter heating/crisis assistance in FY2001. According to a survey done by the National Energy Assistance Directors Association (which represents state LIHEAP directors), the number of household receiving winter heating assistance in FY2002 stood at approximately 4.4 million.

LIHEAP is a federally funded block grant program designed to ease the energy cost burden of low-income households. Federal requirements are minimal and leave most important program decisions to the states, the District of Columbia, U.S. territories and commonwealths, and Indian tribes and tribal organizations (collectively referred to as grantees) who receive federal funds. The federal government (HHS) may not dictate how grantees implement “assurances” that they will comply with general federal guidelines.

Federal eligibility standards and grantee responsibility. Federal law limits eligibility to households with incomes up to 150% of the federal poverty income guidelines (or, if higher, 60% of the state median income). States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be excluded. States may separately choose to make eligible for LIHEAP assistance any household or households where at least one member is a recipient of Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veteran’s programs.

Within these limits, grantees decide which, if any, assistance categories to include, what income limits to use, and whether to impose *other* eligibility tests. The statute gives priority for aid to households with the greatest energy needs or cost burdens, especially those that include disabled or frail elderly individuals or young children. Federal standards require grantees to treat owners and renters “equitably,” to adjust benefits for household income and home energy costs, and to have a system of “crisis intervention” assistance for those in immediate need. LIHEAP assistance does not reduce eligibility or benefits under other aid programs. Federal rules also require outreach activities, coordination with the Department of Energy’s

weatherization program, annual audits and appropriate fiscal controls, and fair hearings for those aggrieved. Grantees decide the mix and dollar range of benefits, choose how benefits are provided, and decide what agencies will administer the program.¹

Participation and benefits. Funds are available for four types of energy assistance to eligible households:

- help paying heating or cooling bills;
- low-cost weatherization projects (limited to 15% of allotment unless grantee has waiver for up to 25%);
- services to reduce need for energy assistance (limited to 5% of allotment); and
- assistance with energy-related emergencies.

According to an HHS analysis of data from the Census Bureau's March 1999 Current Population Survey, approximately 24% of LIHEAP recipients are households that do not receive any other public assistance through TANF, SSI, Food Stamps or subsidized housing and some 35% are elderly households.

HHS uses state data to estimate participation levels. For FY2001 (most recent year available) an estimated 4.4 million households received assistance with heating payments; 250,000 received cooling aid; 1,356,000 received winter crisis aid; 87,000 received summer crisis aid; and 97,000 received weatherization assistance. (Although HHS estimates a combined total of households that received winter crisis and/or heating assistance — 4.8 million households in FY2001 — because one household may have received multiple kinds of assistance, it is not possible to simply add each of the household counts together to calculate a single number of households aided.)

The percentage of federally eligible households receiving LIHEAP winter heating/crisis benefits declined from 31% in 1983 to an estimated 13% in FY2000.² Greater program funding during the 2000-2001 heating season (\$1.4 billion in regular FY2001 funding plus \$856 million in LIHEAP contingency funds)³ brought the percent of federally eligible households served in FY2001 to 16%. Subsequent program funding has fallen below the effective total FY2001 LIHEAP funding level (\$2.26 billion). For FY2002, Congress appropriated \$1.7 billion in regular LIHEAP funds — \$300 million above the regular funds available for FY2001. However, because fewer contingency funds were released (and none during the heating season)

¹ Information regarding state LIHEAP program characteristics and contacts is available at [<http://www.ncat.org/liheap/sp.htm>].

² Many states have income eligibility standards below the maximum federal eligibility level so that the percentage of estimated *state*-eligible households served would be higher (e.g. 23% in FY2001).

³ These contingency funds were made available to all states. Of this total contingency fund amount, \$400 million was released from the federal treasury in the final week of FY2000. This made the money effectively available to state programs for the FY2001 program year. See **Table 1** at the end of this report for LIHEAP funding levels by year.

state LIHEAP administrators experienced an effective cut in resources.⁴ Total FY2003 funding currently stands at \$1.988 billion (\$1.988 billion in regular funds plus \$200 million in contingency funds, made available to all states in January 2003).

The most recent available state data compiled by HHS shows an average heating/winter crisis benefit of \$364 in FY2001 (compared to \$271 in FY2000 and \$237 in FY1999). The constant (1981) dollar value of average winter/heating crisis benefits declined from \$213 in the first year of the program (FY1981) to a low of \$112 in FY1998; in FY2001 its constant dollar (1981) value was \$187.

Authorization. In 1998, P.L. 105-285 reauthorized LIHEAP, without major program changes and set annual funding authorization for FY2002-FY2004 at \$2 billion. In 1994 (P.L. 103-252), Congress stipulated that LIHEAP benefits and outreach activities target households with the greatest home energy *needs* (and costs), enacted a separate and permanent contingency funding authorization of \$600 million each fiscal year and allowed those funds to be allocated to one or more states at the discretion of the HHS secretary. The 1994 law also established the “Residential Energy Assistance Challenge” (REACH) grant program to increase efficiency of energy usage among low-income families and reduce their vulnerability to homelessness, and other health and safety risks due to high energy costs.

Other significant amendments to the program were authorized in 1990 under P.L. 101-501. That act created the Incentive Program for Leveraging Non-Federal Resources, which offers supplemental grants to states that win reduced energy rates for low-income households. Although the statute provides a separate funding authorization of between \$30 million to \$50 million for leveraging incentive and REACH grants combined, in practice, they have been funded at between \$22 million to \$30 million out of the program’s regular fund appropriations. P.L. 101-501 also authorized a July to June program year (or forward funding) for LIHEAP to allow state program directors to plan for the fall/winter heating season with knowledge of available money. This program year language was subsequently removed although the statute now states that money appropriated in a given fiscal year is to be made available for obligation in the following fiscal year. Congress last provided advance appropriations for LIHEAP in the FY2000 appropriations cycle.

Funding and allocation. The LIHEAP statute authorizes regular appropriations, which are allocated to all states based on a statutory formula, and contingency funds, which are allocated to one or more states at the discretion of the Administration.

Regular funds. Regular funds are allocated to states according to a three-tier formula prescribed in the LIHEAP statute as amended by the Human Services Reauthorization Act (HSRA) of 1984 (P.L. 98-558). The particular tier used for the allocations is determined by the size of the appropriation for that fiscal year. For

⁴ Congress appropriated a total of \$300 million in contingency funds. Of this amount, \$100 million was released in August 2002 to states (34, including the District of Columbia) that experienced exceptionally high summer temperatures. The remainder of these appropriated contingency funds lapsed with the close of FY2002.

funding levels below \$1.975 billion a Tier I rate, determined in 1981, is applied. For allocations from \$1.975 up to \$2.25 billion a new Tier II rate is applied. At the Tier II rate, states are subject to a hold-harmless level where their new Tier II allocation must be at least as great as the allocation the state received in 1984. Those states with the greatest percentage increase in their allocations and which are not at a hold-harmless level must have their allocations ratably reduced until the hold-harmless provision for states below that level is met. The Tier II formula is required by law to account for variations in heating and cooling needs of the states, variations in types of energy used, variations in energy prices, and variations in the low-income population and their heating and cooling methods, while using the most current data available.

For funding levels at or above \$2.25 billion a Tier III rate is applied. The Tier III rate uses the Tier II methodology but there are additional requirements for distributing funds. States that would have received less than 1% of a total \$2.25 billion allocation must be allocated funds using the rate they would have experienced at a hypothetical \$2.14 billion allocation (if this rate is greater than the calculated rate at \$2.25 billion). In both the Tier II and Tier III rates, a state will not be allocated less funds than the state received in 1984. However, the proportion of total regular funds each state receives may differ substantially from the proportion received in 1984.

In all cases LIHEAP grants to states may be supplemented with other federal dollars, including: contingency funds, leveraging incentive and REACH grants, funds left over from the previous fiscal year, and rarely (if ever) used authority to transfer funds from other federal block grants.⁵

Contingency funds. The statute currently provides that LIHEAP contingency funds may only be released at the discretion of the Administration and may be allocated to one or more states based on their needs. It further provides that contingency funds are authorized “to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency.” The term “emergency” is defined in the LIHEAP statute to include: a natural disaster; a significant home energy supply shortage or disruption; significant increases in the cost of home energy, home energy disconnections, participation in public benefit programs, or unemployment; or an “event meeting such criteria as the [HHS] Secretary may determine to be appropriate.”

Table 1 (at the end of this report) shows a history of actual and proposed LIHEAP funding for each of FY1982-FY2004.

Recent Developments and Current Issues

Appropriations. On July 10, 2003 the House approved legislation (H.R. 2660) recommending \$1.7 billion in regular LIHEAP funds and an additional \$100 million in LIHEAP contingency funds for FY2004. On September 10, 2003 the

⁵ For more information on the formula allocation, see CRS Report RS21605, *Low-Income Home Energy Assistance Program (LIHEAP): Estimated Allocation Rates*.

Senate approved an amended H.R. 2660, appropriating \$2 billion for LIHEAP, all of which would be for regular LIHEAP allotments. In his FY2004 budget, President Bush also called for \$2 billion in total LIHEAP funding, however his request specified that of this amount \$1.7 billion would be for regular fund allotments and \$300 million for contingency funds. As of October 16, 2003, H.R. 2660 is in conference between the House and the Senate in order to resolve differences.⁶

Authorization. On April 10 the House passed its version of the Energy Policy Act of 2003 (H.R. 6), which included several LIHEAP provisions that were reported out of the House Energy and Commerce Committee on April 8 (as part of H.R. 1644). The House-passed bill would raise the LIHEAP regular funds authorization to \$3.4 billion and extend the program's funding authorization through FY2006. In addition, H.R. 6 would require HHS to report to Congress, within 1 year of the bill's enactment, on how LIHEAP "could be used more effectively to prevent loss of life from extreme temperatures." The committee report accompanying the bill (H.Rept. 108-65, Part 1) states that this provision is intended to assist HHS in developing a "more accurate" formula for distributing LIHEAP funds. H.R. 6 was amended on the House floor to include an additional LIHEAP provision that would allow any bonus funds received by the federal treasury as a result of leasing activities in the Arctic National Wildlife Reserve to be appropriated for additional LIHEAP funding (H.Amdt. 68). The Congressional Budget Office (CBO) estimates the bonuses would produce \$2.1 billion in revenue to the federal treasury over 5 years.

On June 5, 2003, the Senate voted to amend S. 14, the Energy Policy Act of 2003, to include a provision that would raise the regular funds authorization for LIHEAP from \$2.0 billion to \$3.4 billion in FY2004 and would extend, at this same higher level, the program's funding authorization through FY2006 (S.Amdt. 860). Program funding authorization is currently set to expire with FY2004. On July 31, 2003, the Senate suspended debate on the Energy Policy Act (S. 14). That same day, the Senate passed H.R. 6 with an amendment that replaced the language in the House version of H.R. 6 with the text of the energy bill the Senate had passed in 2002 (H.R. 4, 107th Congress). This included authorization of \$3.4 billion for FY2003 through FY2005. As of October 16, 2003, H.R. 6 is in conference between the House and the Senate in order to resolve differences.

LIHEAP formula. According to the House Energy and Commerce Committee (H.Rept. 108-65, Part 1), the HHS report on preventing loss of life due to extreme temperatures should "assist the Secretary in developing a more accurate formula allocation methodology" to better meet the home energy assistance needs of "vulnerable populations." Any formula developed, the committee report notes, should use the best statistical data and model now available, be a simple, easy-to-understand science based mechanism that considers state-level expenditures for low-income home heating and cooling needs, and include annually updated, state-level heating and cooling degree day and fuel price information. Finally, the legislative language would require HHS to consult with appropriate state officials in preparing the report. Although the Senate rejected a proposal to amend S. 14 to include

⁶ For more information about FY2004 appropriations see CRS report RL31803, *Appropriations for FY2004: Labor, Health and Human Services, and Education*.

legislative language similar to this, members of the Senate HELP Committee have indicated their willingness (even as early as the 107th Congress) to at least review the LIHEAP formula. (See *Congressional Record*, April 16, 2002, pp. S2716-S2717.) In addition, the President's FY2003 budget indicated the Administration's interest in changing the formula used to distribute LIHEAP funds and, in particular, in "basing the formula on current home energy expenditures paid by low-income households."

As amended in 1984 (P.L. 98-558), the LIHEAP statute provides that funds be allotted to states based on current home energy expenditures of low-income households. However, it also states that unless regular LIHEAP funds reach \$1.975 billion in any given fiscal year (after FY1985) no state can receive less funds than it would have received under the previous allotment formula. Because regular LIHEAP funds have not exceeded \$1.975 billion since FY1986, the prior formula for allocating funds has generally governed the percentage share of funds states receive. First developed for use in FY1981, that formula relied on then available population, weather, and energy expenditure data and included factors that gave greater weight to states with colder temperatures.

Funding level. For FY2003, Congress allowed \$1.788 billion in funding for regular LIHEAP grants (P.L. 108-7). In addition, on January 24 the Administration released \$200 million in LIHEAP contingency funds to all states. This brings the total FY2003 regular and contingency funding available for LIHEAP to \$1.988 billion.

Under the series of continuing resolutions that funded the government from October 1, 2002 through February 20, 2003, HHS had made allotments to states for the first two quarters of FY2003 at a lower funding level than was finally approved. In early March, HHS released supplemental regular LIHEAP funds based on the higher funding level included in the final law (P.L. 108-7)⁷ and on April 1 it awarded states their third quarter LIHEAP allotment. However, as of the March supplemental release, 10 states (DC, GA, IL, KY, MN, MS, NM, NY, RI, and TX) had requested and received their full FY2003 LIHEAP grant allotment, an additional 23 states had received 90% or more of their funding, and only 5 states (AZ, HI, MI, NC, WI) had received less than 75% of their regular FY2003 funding. (LIHEAP funds are released quarterly, but states are permitted to specify what percentage of their total annual funds they wish to receive in a given quarter.)

The LIHEAP statute authorizes regular appropriations, which are allocated to all states based on a statutory formula (described above), and contingency funds, which are allocated to one or more states at the discretion of the Administration. Of the \$1.788 billion in regular LIHEAP funds made available for FY2003, \$100 million had previously been appropriated as contingency funds (P.L. 107-20) that were to remain "available until expended." However, the FY2003 spending legislation (P.L. 108-7) amended this previous law and converted the remaining contingency funds into regular funds.

⁷ For a table showing total LIHEAP funds released (including regular and contingency), by state, as of Mar. 13 go to [<http://www.dhhs.gov/news/press/2003pres/20030304.html>].

Contingency funds. The FY2003 funding act (P.L. 108-7) did not include an appropriation of LIHEAP contingency funds and as of April 15, 2003, there are no LIHEAP contingency funds available for release. For FY2002, \$300 million in LIHEAP contingency funds were appropriated (of which \$100 million was released and \$200 million expired at the end of that fiscal year).

On January 24, 2003, President Bush directed HHS to release \$200 million in LIHEAP contingency funds to help address increased home heating fuel costs. Of these funds, \$120 million was distributed to all states according to the same formula used to allocate regular LIHEAP funds. The remaining \$80 million was also distributed to all states but several formula factors were added to ensure that states with the largest number of low-income households using oil as their primary heating fuel received a greater share of the funds. Low-income households were defined as having income at or below 150% of the federal poverty level or 60% of state median income, whichever is greater.⁸ To distribute this money, the Administration drew on LIHEAP contingency funds that Congress included in an FY2001 supplemental appropriations act (P.L. 107-20).

In late FY2002, HHS released \$100 million in LIHEAP contingency funds to each state whose temperatures between June 23, 2002 and August 3, 2002 were significantly higher than the state's 30-year average temperature for that time period. Among the 34 jurisdictions that met this criteria, funds were allocated based on the severity of the heat wave and the number of households with incomes below 125% of the federal poverty level.⁹ The August release of contingency funds was made from the \$300 million appropriated for this account as part of FY2002 appropriations (P.L. 107-116).

Performance measurement. The LIHEAP statute provides that federal LIHEAP funds should serve low-income households that pay high home energy costs relative to income and that have very young, disabled, or elderly individuals. DHHS has developed performance goals and measures to enable it to quantify state performance. The performance goals are to increase the percentage of LIHEAP recipient households having: a household member 5 years old or younger; a household member at least 60 years old; and the lowest income households with the highest energy costs. Achievement of these goals will be measured using specially developed benefit-targeting and burden-targeting indexes. The agency intends to measure performance using a FY2001 baseline. The data collected are intended to help states improve program outreach and management, and to assist DHHS in determining how best to offer technical assistance to states.

⁸ A list of FY2003 contingency allotment amounts by state is available at [<http://www.hhs.gov/news/press/2003pres/20030124a.html>].

⁹ A list of FY2002 contingency allotments amounts by state is available at [<http://www.acf.dhhs.gov/programs/liheap/im02-17.htm>].

Table 1. LIHEAP Funding Trends: FY1982-FY2004
(\$ in thousands)

Fiscal year	Regular funds President's request	Regular funds authorization level ^a	Regular funds appropriation	Contingency funds appropriated	Contingency funds dispersed
1982	\$1,400,000	\$1,875,000	\$1,875,000	—	—
1983	1,300,000	1,875,000	1,975,000	—	—
1984	1,300,000	1,875,000	2,075,000	—	—
1985	1,875,000	2,140,000	2,100,000	—	—
1986	2,097,765	2,275,000	2,100,000	—	—
1987	2,097,642	2,050,000	1,825,000	—	—
1988	1,237,000	2,132,000	1,531,840	—	—
1989	1,187,000	2,218,000	1,383,200	—	—
1990	1,100,000	2,307,000	1,443,000	—	—
1991	1,050,000	2,150,000	1,415,055	195,180	195,180
1992	1,025,000	2,230,000	1,500,000	300,000	0
1993	1,065,000	<i>ssan</i> ^b	1,346,030	595,200	0
1994	1,507,408	<i>ssan</i> ^b	1,437,402	600,000	300,000
1995	1,475,000	2,000,000	1,319,202	600,000	100,000
1996	1,319,204	2,000,000	900,000	180,000	180,000
1997	1,000,000	2,000,000	1,000,000	420,000	215,000
1998	1,000,000	2,000,000	1,000,000	300,000	160,000
1999	1,300,000	2,000,000	1,100,000	300,000	175,299
2000	1,400,000	<i>ssan</i> ^b	1,100,000	900,000	744,350 ^c
2001	1,400,000	<i>ssan</i> ^b	1,400,000	600,000	455,650
2002	1,400,000	2,000,000	1,700,000	300,000	100,000 ^d
2003	1,400,000	2,000,000	1,788,000 ^e	0	200,000 ^f
2004	1,700,000	2,000,000			

Source: Table prepared by the Congressional Research Service (CRS) based on HHS data.

^a Amounts listed are for *regular* funding only. In 1994, Congress enacted a permanent \$600 million annual authorization for contingency funding. Prior to 1994, contingency funds were sometimes available.

^b Such sums as necessary.

^c President Clinton released \$400 million of these FY2000 contingency funds in late Sept. 2000 making it effectively available to states in FY2001.

^d These funds were distributed out of a total of \$300 million in contingency funds that were appropriated in FY2002 (P.L. 107-116). With the end of FY2002, the remaining \$200 million of these FY2002 contingency funds expired.

^e The final FY2003 appropriations act (P.L. 108-7) included \$1.688 billion in new regular funds and converted \$100 million of the contingency funds, originally appropriated in FY2001 (P.L. 107-20), into regular funds.

^f These funds were distributed out of a total of \$300 million in contingency dollars appropriated as part of the FY2001 supplemental (P.L. 107-20). That law provided that the funds were “available until expended.” Congress subsequently converted the remaining \$100 million into regular funds available (see tablenote e).