

INDEPENDENT AGENCIES

MAINE STATE HOUSING AUTHORITY

CHAPTER 24

Home Energy Assistance Program Rule

Summary: The Rule establishes standards for the Home Energy Assistance Program for the State of Maine as administered by the Maine State Housing Authority. The Home Energy Assistance Program provides Fuel Assistance and Energy Crisis Intervention Programs to income Eligible Households. The Rule also establishes standards for the HEAP Weatherization, Central Heating Improvement Program, Heat Pump Program, and Supplemental Benefits funded by TANF funds.

1. Definitions.
 - A. “Act” means the Maine Housing Authorities Act, [30-A M.R.S. § 4701](#) et seq., as it may be amended from time to time.
 - B. “Annual Consumption Report” means the annual report Vendors must submit to MaineHousing to report their HEAP customers’ Home Energy deliveries from May 1st through April 30th.
 - C. “Applicant” means a person who signs the completed Application.
 - D. “Application” means forms and documents completed, signed, and provided by Applicant to determine eligibility for a Benefit and ECIP.
 - E. “Application Intake Date” means the date an Application is taken with the Applicant by Subgrantee personnel both online or not online.
 - F. “Benefit” means the dollar amount of Fuel Assistance an Eligible Household receives.
 - G. “Benefit Return” means a Benefit, partial or whole, returned to MaineHousing.
 - H. “Categorical Income Eligibility” means Household Members who are included on a Maine Department of Health and Human Services (“Maine DHHS”) Notice of Decision for TANF or SNAP assistance will be considered income eligible for HEAP, as the Household Members’ incomes have already been vetted. Household Members who are not included on the Notice of Decision must provide income documentation as outlined in this Rule and the HEAP Handbook.
 - I. “CHIP” means the Central Heating Improvement Program.
 - J. “Citizenship Attestation Form” means an attestation form prescribed by MaineHousing in the HEAP Handbook.
 - K. “Contractor” means a provider of materials or services to EligibleHouseholds.
 - L. “Date of Application” means the date an Application is received by the Subgrantee.
 - M. “Direct Energy Cost” means an Energy Cost that is directly paid by the Household.
 - N. “Dwelling Unit” means an occupied residential housing structure with one or more rooms that

was originally constructed and designed as permanent living quarters for one or more persons, when permanently connected to the required utilities (including plumbing, electricity and Heating Systems) and contains bathroom and kitchen facilities specific to that unit. A Dwelling Unit has its own private entrance from the outside or off an enclosed hallway leading from the outside that does not pass through or offer an open access to any other unit within the structure. A Dwelling Unit does not include a camper, trailer, semitrailer, truck camper, motor home, boat, railroad car, bus, yurt or other structure designed and constructed to provide temporary living quarters.

- O. “ECIP” means the Energy Crisis Intervention Program.
- P. “Eligible Household” means a Household that satisfies all eligibility and income requirements of the HEAP Act and requirements of this Rule.
- Q. “Energy Cost” means cost of energy used for heating a Dwelling Unit or Rental Unit.
- R. “Energy Crisis” shall have the same meaning as set forth in [42 U.S.C. §8622\(3\)](#), as same may be amended from time to time.
- S. “Errors and Program Abuse” means the act of applying for or obtaining assistance to which one is not entitled by means of submitting false statements or withholding information pertinent to the determination of eligibility or benefits.
- T. “Fuel Assistance” means the component of HEAP that assists Eligible Households with their Home Energy Costs.
- U. “Functioning Heating System” means a Heating System that is working safely.
- V. “HEAP” means the Home Energy Assistance Program established pursuant to the HEAP Act and the Act.
- W. “HEAP Act” means [42 U.S.C. §8621 et seq.](#), and the regulations promulgated there under, including [45 C.F.R. § 96.1](#) through 96.68 and [45 C.F.R. § 96.80 et seq.](#), all as may be amended from time to time.
- X. “HEAP Handbook” means the handbook in effect for a Program Year that is used as a resource and guide for the administration of HEAP.
- Y. “HEAP Weatherization” means the weatherization component of HEAP that provides Low- cost/no-cost Weatherization Activities, as defined by [10 C.F.R. §440.20](#), and other cost-effective energy-related home repairs or installations.
- Z. “Heating Season” means the period of time beginning October 1 and ending April 30.
- AA. “Heating Source” means any device used to provide heat to a Dwelling Unit.
- BB. “Heating System” means a permanently installed system that is used to heat the Dwelling Unit. A portable space heater is not considered to be a Heating System.
- CC. “Home Energy” means a source of heating or cooling in residential dwellings as set forth in [42 U.S.C. §8622\(6\)](#), as same may be amended from time to time.
- DD. “Household” means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent as set forth in [42 U.S.C. §8622\(5\)](#), as same may be amended from time to time.

- EE. “Household Income” means the total income from all sources before taxes and deductions as further defined in this Rule.
- FF. “Household Member” or “Household Members” means those individuals who are part of the Household.
- GG. “Incidental Costs” means costs of services billed to a Household by a Vendor related to the use or delivery of Home Energy including, but not limited to: surcharges, penalty charges, reconnection charges, clean and repair service charges, security deposits, and insurance.
- HH. “Indirect Determinable Energy Cost” means a cost for Home Energy that is not directly paid for by the Household but is a cost to the Household, such as heat that is included in rent.
- II. “Life Threatening Crisis” means the household is currently without heat or utility service to operate a Heating Source or a Heating System.
- JJ. “MaineHousing” means the Maine State Housing Authority.
- KK. “Manufactured/Mobile Home” means a residence that is constructed at a manufacturing facility on a permanent chassis (i.e. the wheel assembly necessary to transport the residence is removable, but the steel undercarriage remains intact as a necessary structural component), was originally constructed and designed as permanent living quarters, and is transportable in one or more sections, which in traveling mode is 12 body feet or more in width and as erected on site is 600 or more square feet.
- LL. “Modular” means a residence that is constructed at a manufacturing facility, but not constructed on a permanent chassis, was originally constructed and designed as permanent living quarters, and is transportable in one or more sections on an independent chassis such as a truck or train.
- MM. “Overpayment” means any HEAP benefits paid to, or on behalf of, any Applicant or Household that exceeds the amount the Applicant or Household was eligible to receive.
- NN. “Person with a Disability” means a person with a physical or mental disability as defined pursuant to 5 M.R.S. § 4553-A.
- OO. “Programs” means Fuel Assistance, Assurance 16, ECIP, CHIP, Heat Pump Program, and HEAP Weatherization.
- PP. “Program Year” means the period of time beginning October 1 and ending September 30.
- QQ. “Rental Unit” means a Dwelling Unit that is rented.
- RR. “Roomer” means a person who qualifies as a separate Household and pursuant to a rental agreement rents no more than two rooms in a Dwelling Unit occupied as separate living quarters and who may, depending upon the rental agreement, be granted privileges to use, but not reside in, other rooms located in the same Dwelling Unit. A Roomer cannot be related by birth, marriage or adoption to any member of the lessor’s Household. A Roomer also includes a boarder (meaning a Roomer who is provided meals).
- SS. “Service Area” means the geographic area, as defined by MaineHousing, within which the Subgrantee operates and administers the Programs and the Vendor provides services.
- TT. “State” means the State of Maine.
- UU. “Subgrantee” means a public or private nonprofit agency, or municipality, selected by MaineHousing to

administer the Programs.

- VV. “Subsidized Housing” means Households whose rent is based on their income or the subsidy pays for any portion of their mortgage. Housing in which a tax credit or federal/state loan is applied to reduce debt burden on the property is not considered Subsidized Housing. A resident of a residential housing facility including without limitation group homes, homeless shelters, and residential care facilities or a Tenant who pays below market rent or no rent due to the landlord receiving a federal or state subsidy for rent is living in Subsidized Housing.
- WW. “Supplemental Benefits” means the benefits that are funded with supplemental HEAP funds.
- XX. “Supplemental Nutrition Assistance Program (SNAP)” means the nutrition assistance program administered by the United States Department of Agriculture.
- YY. “TANF” means payments under the Temporary Assistance for Needy Families program as defined in [22 M.R.S., Chapter 1053-B, § 3762 et seq.](#), as same be amended from time to time.
- ZZ. “TANF Fuel Supplemental Benefits” means the benefits that are funded with TANF funds pursuant to [22 M.R.S., Chapter 1053-B, § 3769-E.](#)
- AAA. “Tenant” means an Applicant who resides in a Rental Unit.
- BBB. “Vendor” means an energy supplier that has entered into an agreement (“Vendor Agreement”) with MaineHousing to provide Home Energy to Eligible Households.

2. Application.

- A. An Applicant may have only one certified eligible Application per Program Year. Household Members may not submit an Application for a given Program Year if they were included on a certified eligible Application for that Program Year
- B. An Applicant may resubmit a new Application if the Applicant’s Application has either been denied or withdrawn any time prior to the issuance of a Benefit.
- C. Subgrantees will process Applications in accordance with the requirements of this Section and the HEAP Handbook:
1. Applications will be taken as prescribed by MaineHousing each Program Year and will continue to be taken until the last working day of May of the Program Year or until otherwise prescribed by MaineHousing, whichever occurs sooner.
 2. Subgrantee will only take Applications for Households in its Service Area. Applications received in error will be forwarded to the correct Subgrantee and the Applicant will be informed of the error.
 3. The Application forms provided or approved by MaineHousing must be used to administer the Programs and will be reviewed annually prior to the commencement of taking Applications each Program Year.
 4. Applications may be taken via telephone. Subgrantee will complete the Application over the telephone and send the completed Application and other appropriate documents to the Applicant for review and signature.

5. All Applications require Applicants to return the signed Application within twenty (20) business days of the interview with the Subgrantee.
6. Subgrantee will make all reasonable efforts during the first ninety (90) days it takes Applications to process and serve returning Households that have a Direct Energy Cost and a member in the Household who (i) is 60 years of age or older, (ii) has a disability, or (iii) is 6 years or younger.
7. Subgrantees must comply with MaineHousing's Equal Access Handbook to assist Households with Limited English Proficiency (LEP) and must make reasonable accommodations for a Person with a Disability.
8. Subgrantee must certify or deny an Application within thirty (30) business days from the Date of Application. Written notification of eligibility must be sent to the Applicant within ten (10) calendar days of the decision or when funding is available, whichever is later. Written notification of denial must be sent to the Applicant within three (3) business days.
 - a. **Written notification of eligibility.** The written notification of eligibility must state the Benefit amount, the date the Benefit or credit notification was sent to the Vendor, the approved Home Energy type and the manner by which the Applicant can request an Informal Review or Fair Hearing, if applicable.
 - b. **Written notification of denial.** The written notification of denial must state the facts surrounding the decision, the reason for the decision and the manner by which the Applicant can request an Informal Review or Fair Hearing.
 - i. A denial for missing information will be rescinded if the required information is received by the Subgrantee within (15) fifteen business days from the date of written notification of denial.
9. The Subgrantee must verify citizenship or legal status, income and Social Security Numbers of all Household Members as well as the identity of the Applicant as prescribed by the HEAP Handbook and this Rule.

3. Eligibility.

Except as may be expressly provided for elsewhere in this Rule, eligibility shall be determined on the basis of information submitted by the Applicant as of the Date of Application. MaineHousing and Subgrantees reserve the right to ask for additional or clarifying information from Applicant, Household Members, or third parties to determine eligibility.

A. Household Eligibility.

1. The Applicant and each additional Household Member must be one of the following: (1) a U.S. Citizen; (2) a U.S. Non-Citizen National; or (3) a Qualified Alien. If the Applicant or any Household Member does not meet this requirement they must be excluded from the total number of Household Members when calculating a Benefit. All documentation must be valid. Expired or absent documentation is not acceptable.

U.S. Citizenship or U.S. Non-Citizen National status may be verified using ONE of the following documents:

- a. U.S. Passport

- b. Maine Real ID
- c. Certificate of Naturalization (N-550/N-570)
- d. Certificate of Citizenship (N-560/N-561)
- e. U.S. Birth Certificate
- f. Document from federally recognized Indian Tribe that includes your name and the name of the federally recognized Indian Tribe that issued the document, and shows your membership, enrollment, or affiliation with the tribe. Documents that can be provided:
 - i. A Tribal enrollment card;
 - ii. A Certificate of Degree of Indian Blood;
 - iii. A Tribal census document;
 - iv. Documents on Tribal letterhead signed by a Tribal official

If the documentation listed above is unavailable for an Applicant or any Household Member, then Subgrantee may accept ONE document from each of the two lists (List A & List B) below to show U.S. Citizenship or U.S. Non-Citizen National status.

LIST A	LIST B
Social Security Card and Citizenship Attestation Form	Driver's license issued by a U.S. State or Territory
Consular Report of Birth Abroad (DS-1350)	Identification card issued by the Federal, state or local government
Certification of Birth Abroad (FS-545)	School identification card
U.S. Citizen Identification Card (I-197)	A clinic, doctor, hospital, or school record, including preschool or day care records (for children under 19 years old)
Northern Mariana Card (I-873)	U.S. Military card or draft record or Military dependent's identification card
Military record showing a U.S. place of birth	U.S. Coast Guard Merchant Mariner card
U.S. medical record from a clinic, hospital, physician, midwife or institution showing a U.S. place of birth	Voter Registration Card
U.S. life, health or other insurance record showing U.S. place of birth	Two other documents that prove your identity, like employer identification cards, high school or college diplomas, marriage certificates, divorce decrees, property deeds or titles
Religious record showing U.S. place of birth recorded in the U.S.	
School record showing the child's name and U.S. place of birth	
Federal or State census record showing U.S. citizenship or U.S. place of birth	
Final adoption decree showing the person's name and U.S. place of birth	
Documentation of a foreign-born adopted child who received automatic U.S. Citizenship (IR3 or IH3)	

Qualified Alien status may be verified using ONE of the following documents:	
<i>Alien lawfully admitted for permanent residence:</i>	Permanent Resident Card, “Green Card” (I-551); OR Unexpired Temporary I-551 stamp in foreign passport or on INS Form I-94
<i>Asylee</i>	INS Form I-94 annotated with stamp showing grant of asylum under Section 208 of the INA; INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”; INS Form I-766 (Employment Authorization Document) annotated “A5”; Grant letter from the Asylum Office or INS; OR Order of an immigration judge granting asylum
<i>Refugee</i>	INS Form I-94 annotated with stamp showing admission under § 207 of the INA; INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”; INS Form I-766 (Employment Authorization Document) annotated “A3”; OR INS Form I-571 (Refugee Travel Document)
<i>Alien Paroled into the U.S. for at least one year</i>	INS Form I-94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Cannot aggregate period of admission for less than one year to meet the one-year requirement)
<i>Alien whose deportation or removal was withheld</i>	INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(10)”; INS Form I-766 (Employment Authorization Document) annotated “A10”; OR Order from an immigration judge showing deportation withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA
<i>Alien Granted Conditional Entry</i>	INS Form I-94 with stamp showing admission under § 203(a)(7) of the INA; INS Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”; INS Form I-766 (Employment Authorization Document) annotated “A3”
<i>Cuban/Haitian Entrant</i>	INS Form I-551 (Alien Registration Receipt Card, commonly known as a “green card”) with the code CU6, CU7, or CH6; Unexpired temporary I-551 stamp in foreign passport or on *INS Form I-94 with the code CU6 or CU7; OR INS Form I-94 with stamp showing parole as “Cuba/Haitian Entrant” under Section 212(d)(5) of the INA

2. The Applicant must also verify their identity. All documentation must be valid. Expired or absent documentation is not acceptable. If the documentation provided by the Applicant to verify citizenship or legal status bears a photograph of the Applicant, this will be acceptable to verify identity. Otherwise, ONE of the following documents will be acceptable:

Driver's license	SNAP electronic benefit transfer (EBT) card with photo
State issued ID card	U.S. Military ID
Passport or passport card	

If the documentation listed above is unavailable for the Applicant the Subgrantee may allow the Applicant to verify identity by providing TWO of the following documents:

Adoption Decree	Birth Certificate	Divorce Decree
Employer Identification Card	Foreign School Record that contains a photograph	High School or College Diploma
Marriage Certificate	Notice from a Public Benefits Agency (i.e. Notice of Decision from DHHS, Social Security Benefit Award Letter, MaineCare Award Letter)	Property Deed or Title Document
Social Security Card	Union or Worker's Center Identification Card	Voter Registration Card

If the Applicant cannot verify their identity they are not eligible for a Benefit. If the Applicant is applying on behalf of other eligible Household Members, at least one of the eligible Household Members must provide the required identity documentation.

3. All Household Members two years of age or older must provide proof of their Social Security Number (SSN). One of the following documents is acceptable provided it contains all nine digits of the Applicant's SSN and the Household Member's full name:

Bank tax form	Medicare card with number ending with the suffix "A"
Non SSA-1099 tax form	Social Security Card issued by the Social Security Administration
SSA 1099 tax form	Valid unexpired U.S. Military documents such as DD Form 214 Certificate of Release or Discharge from Active Duty issued by the U.S. Department of Defense
W-2 (wage and tax statement)	

If the documentation listed above is unavailable for any Household Member the Subgrantee may allow the Household Member to provide one of the following documents:

Two recent paystubs (within the last sixty (60) days) showing Household Member's full SSN	Most recent (within the last two years) full Federal Tax Return showing Household member's full SSN and confirmation of filing
A Notice of Decision issued by a Public Benefits Agency that shows the Household member's full SSN	An Income Withholding Order/Notice for Support showing Household Member's full SSN
A recent (within the last year) Social Security Administration letter or notice showing Household Member's full SSN	

If the Household includes a child under the age of 24 months old who has not received a SSN, the Application is processed. However, the Applicant must provide the child's SSN for subsequent Program Year Applications, after the child reaches the age of 24 months old.

4. On the Date of Application, all Household Members must be full-time residents of the State and reside, intend to reside, or have resided in a Dwelling full-time for at least four (4) months during a Heating Season and have a Direct Energy Cost or Indirect Determinable Energy Cost.
5. As part of the application process all Household Members 18 years of age or older must sign a release to grant permission to share their personal information between the Maine Department of Health and Human Services, the Maine Department of Labor, the Social Security Administration, Subgrantee and other organizations designated on the permission to share form and MaineHousing to determine eligibility for Benefits as well as eligibility for other programs administered by State, Federal and local agencies.
6. A Household's eligibility to receive benefits from Programs is contingent on the resolution of any Overpayment as described in Section 14, Errors and Program Abuse. During repayment a Household will be eligible for ECIP if they are in compliance with the terms of the repayment agreement. The Household will not be eligible under the HEAP Weatherization and the Department of Energy Weatherization Assistance Program, CHIP, or the Heat Pump Program until repayment is complete.
7. Roomers may be eligible Households if the Applicant can show a rental agreement that was in existence for at least sixty (60) days prior to the Date of Application and the Roomers meet all of the other eligibility criteria. The Roomers cannot commingle funds or share expenses with the lessor's Household and must show proof that a reasonable market rate rent has been paid under the rental agreement for the entire sixty (60) day period prior to the Date of Application.
8. A member of the Household who is away from the Dwelling Unit part of the time must be included as a Household Member unless the member is a full-time college student as described below in Section 3(A)(9).
9. A full-time college student, up to age 23 years old, or more than 23 years of age if permanently or totally disabled, who is a dependent of the Household may be excluded from the Household if the Applicant chooses as long as the student is not the Applicant.
10. A Live-In-Care Attendant who (i) provides needed health/supportive services to a member of the Household as documented by a qualified professional; (ii) would not be living in the unit expect to provide the necessary supportive services; and (iii) does not contribute financially to the Household, will not be considered part of the Household. If an individual does not meet this definition, they must be included as a Household Member.
11. TANF Fuel Supplemental Benefits. A Household may be eligible for TANF Fuel Supplemental Benefits if its Application for HEAP has been certified eligible in the current Program Year and on the Date of Application the Household included at least one member who was under the age of eighteen (18) and the Dwelling Unit was not considered Subsidized Housing with heat included.

B. Dwelling Unit Eligibility.

1. The Dwelling Unit must:
 - a. Have a Functioning Heating System;
 - b. Be occupied by the Household as its primary residence on a full-time/year-round basis;
 - c. Be permanently connected to or serviced by standard utilities such as electricity and water unless the Household can provide supporting documentation to show the Household occupies the Dwelling Unit as its primary residence on a full-time/year-round basis; and
 - d. Be a residential housing structure with one or more rooms that was originally constructed and designed as permanent living quarters.
2. A Dwelling Unit does not include a camper, trailer, semitrailer, truck camper, motor home, boat, railroad car, bus, yurt or any other structure designed and constructed to provide temporary living quarters, regardless of any and all modification(s) or length. For Fuel Assistance only, a Dwelling Unit may include a hotel or motel if the Household provides documentation showing that the hotel/motel has been their permanent residence for at least sixty (60) days prior to the Date of Application.
3. A Dwelling Unit that is considered Subsidized Housing may be eligible for Fuel Assistance if the heat is included in the rent and the Household pays a portion of their rent or utility costs.
4. Dwelling Units that are used partially for business activity are eligible.

C. Income Eligibility

Income Eligibility is based on documented Household Income or Categorical Income Eligibility. MaineHousing uses the federal Poverty Income Guidelines and State Median Income Guidelines as reported annually by the United States Department of Health and Human Services. MaineHousing reserves the right to manage the Programs within those guidelines when determining benefits.

1. Household Income is determined and verified in accordance with the information provided on the Application. Household Income means the total combined income of all Household Members (not otherwise excluded) from all sources before taxes and deductions and is verified in accordance with the guidelines in the HEAP Handbook. Household Income includes, but is not limited to, the following:
 - a. Wages, salaries, and bonuses before any taxes or deductions;
 - b. Self-employment income;
 - c. Social Security Retirement (SS), Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) Benefits;
 - d. Unemployment and worker's compensation and/or strike benefits from union funds;
 - e. Spousal support or alimony received by a Household Member, or

mortgage/rent payments in lieu of or in addition to payments;

- f. Court ordered or voluntary child support payments received by a Household Member, or mortgage/rent payments in lieu of or in addition to support payments;
- g. Military allotments (pay);
- h. Veteran's Benefits;
- i. Other support from an absent family member or someone not living in the Household excluding loans;
- j. Income of person living in the Household who is a non-qualified alien and 18 years of age or older;
- k. Government employee pensions, private pensions, and regular annuity payments;
- l. Income from dividends, rents, royalties, estates, trusts, and interest. Interest income under \$200.00 must be included as income, but does not need to be supported by documentation;
- m. Net rental income, including funds received from Roomers;
- n. Winnings from any source of gambling or gaming is considered income including, but not limited to private gambling, lottery, horse racing, bingo, etc.;
- o. Jury duty fees.

Household Income does not include:

- a. Assets drawn down from financial institutions;
- b. Foster care payments;
- c. Adoption assistance;
- d. In-kind payments to a Household Member in lieu of payment for work, including the imputed value of rent received in lieu of wages or items received in barter for rent;
- e. Capital gains (except for business purposes);
- f. Income from the sale of a primary residence, personal car, or other personal property;
- g. Tax refunds;
- h. One-time insurance payments;
- i. One-time compensation for injury;
- j. Non-cash income such as General Assistance voucher payments, the bonus value of food and fuel produced and consumed on farms, and the imputed value of rent from owner-

- occupied farm housing;
- k. Bank loans, reverse mortgages, and home equity loans;
 - l. Reimbursement for expenses incurred in connection with employment;
 - m. Reimbursement for medical expenses;
 - n. Any funds received for education from grants, loans and scholarships, and work study;
 - o. Retroactive payments and overpayment adjustments from an entitlement program for a time period outside of the period being considered for HEAP eligibility (i.e. worker's comp, social security benefits, etc.);
 - p. Income earned by a Household Member who is a full time high school student, unless they are the Applicant;
 - q. Income earned by a full-time college student who is not counted as a Household Member in accordance with this Rule;
 - r. Combat zone pay to the military;
 - s. Credit card loans/advances;
 - t. All income used to fulfill a Social Security Administration Program to Achieve Self-Sufficiency (PASS);
 - u. Federal payments or benefits excluded by law as set forth below:
 - i. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902, [42 U.S.C. 4636](#)).
 - ii. Payments of land settlement judgments distributed to or held in trust for members of certain Indian Tribes under Public Laws [92-254](#), [93-134](#), [93-531](#), [94-114](#); [94-540](#), [97-458](#), [98-64](#), [98-123](#) and [98-124](#).
 - iii. Funds available or distributed pursuant to [Public Law 96-420](#), the Maine Indian Claims Settlement Act of 1980 ([25 U.S.C. 1721 et. seq.](#)) to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians.
 - iv. The value of the allotment provided a household under the Supplemental Nutrition Assistance Program ([7 U.S.C.A. 51](#)).
 - v. The value of assistance to children as excluded under the National School Lunch Act ([42 U.S.C. 1760\(e\)](#)) and under the Child Nutrition Act of 1966 ([42 U.S.C. 1780\(b\)](#)).
 - vi. The value of commodities distributed under the Temporary Emergency Food Assistance Act of 1983 ([Public Law. 98-8](#), [7 U.S.C. 612c](#)).
 - vii. Allowances, earnings and payments to individuals participating in programs under the Workforce Innovation and Opportunity Act <https://www.congress.gov/113/bills/hr803/BILLS-113hr803enr.pdf>
 - viii. Program benefits received under the Older Americans Act of 1965 ([42](#)

- [U.S.C. sub-section 3020\(a\)\(b\)](#)) as wages under the Senior Community Service Employment Program (SCSEP).
- ix. Payments to volunteers under the Domestic Volunteer Service Act of 1973 ([Public Law 93-113](#), [42 U.S.C. 5044](#)).
 - x. The value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, Section 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1949.
 - xi. The tax-exempt portions of payments made pursuant to the provisions of the Alaska Native Claims Settlement Act ([Public Law 92-203](#), [43 U.S.C. 1620\(a\)](#)).
 - xii. Payments for supportive services or reimbursement of out-of-pocket expenses made to individual 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 programs under Titles II and III, pursuant to Section 418 of [Public Law 93-113](#).
 - xiii. Any wages, allowances or reimbursement for transportation and attendant care costs, unless accepted on a case-by-case basis, when received by an eligible handicapped individual employed in a project under Title VI of the Rehabilitation Act of 1973 as amended by Title II of [Public Law No. 95-602](#).
 - xiv. All student financial assistance including the following programs funded under Title IV of the Higher Education Act as amended:
 - 1) Pell Grants;
 - 2) Supplemental Educational Opportunity Grants;
 - 3) Grants to States for State Student Incentives;
 - 4) Special Programs for Students from Disadvantaged Backgrounds;
 - 5) Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farm work;
 - 6) Robert C. Byrd Honors Scholarship Program;
 - 7) Assistance to Institutions of Higher Education;
 - 8) Veterans Education Outreach Program;
 - 9) Special Child Care Services for Disadvantaged College Students;
 - 10) Payments to veterans for Aid and Attendance benefits.

An adjustment to a Household Member's gross income will be made for court ordered child support payments made by the Household Member that are documented as paid during the income period.

An adjustment to a Household’s gross income may be made if the Household is over income and has documented medical expenses that were paid during the income period. The amount of medical expenses deducted will be equal to only the amount necessary to make the Household eligible. Medical expenses are defined by Internal Revenue Service Publication 502, as the same may be amended from time to time.

The income of Household Members who do not meet the citizenship or legal status requirements must be included in the Household’s income.

2. **Categorical Income Eligibility.** Household Members who are included on a Maine DHHS Notice of Decision or similar document containing the same information, as determined acceptable by the Subgrantee, for TANF or SNAP assistance will have Categorical Income Eligibility for HEAP. Household Members with Categorical Income Eligibility may have their income determined at a pre-established percentage of the federal poverty level, or using actual vetted income if provided by Maine DHHS. Household Members who are not included in the Notice of Decision must provide income documentation as outlined in this Rule and HEAP Handbook.

4. **Benefit Determination.**

Benefits are determined to ensure that the highest level of assistance will be furnished to Eligible Households which have the lowest incomes and the highest Energy Costs or needs. Benefit availability is based on HEAP funding availability.

- A. MaineHousing, or the Subgrantee as allowed by MaineHousing, will assign a number of points to an Eligible Household that correlates to their Energy Costs. The number of points will be adjusted by an assigned percentage that correlates to the Eligible Household’s poverty level and prorated based on any ineligible Household Members. The adjusted number of points will then be multiplied by a dollar value.

MaineHousing will announce the actual dollar value of points no later than the fifteen (15) calendar days following receipt of the federal HEAP grant award.

The number of points assigned to an Eligible Household will be determined pursuant to the following:

Dwelling Type	Points
Stick-built/Modular	9
Mobile/Manufactured	8
Condo/Duplex	6
Apartment	6

Residing County	Points
Aroostook	7
Somerset	6
Franklin	6
Piscataquis	6
Oxford	5
Penobscot	5
Androscoggin	4
Hancock	4
Waldo	3

Cumberland	3
Lincoln	3
Knox	3
York	3
Washington	2
Kennebec	2
Sagadahoc	2

Fuel Type	Points
Electricity	14
LP Gas	10
Kerosene	8
Oil	7
Bio-Fuel	6
Coal	5
Wood Pellets	5
Corn	5
Natural Gas	5
Wood	4
Heating Subsidized	-9

Priority Determination	Points
60+, Disabled or child 6 and under or Child 7-17	5 3

Poverty Level as Calculated under the Federal Poverty Income Guidelines (FPIG)	Percentage of Points
0%-25%	130%
26%-50%	120%
51%-75%	110%
76%-100%	100%
101%-125%	90%
126%-150%	80%
>than 150% FPIG but not exceeding the maximum of the greater of 150% FPIG or 60% state median income	70%
Calculated poverty level amounts falling between brackets will be rounded to the next higher or lower amount. For example: income at 75.1% will be rounded to 75%; income at 100.6% will be rounded to 101%.	

All final point results that are fractional will be rounded up to the nearest whole number.

- B. TANF Fuel Supplemental Benefits are determined each Program Year by MaineHousing based on the projected number of Households eligible for TANF Fuel Supplemental Benefits and available funding.
- C. Tenants residing in Subsidized Housing with heat included in their rent, who pay a portion of their rent or utility costs, are only eligible to receive a Benefit in an amount to maximize benefits under SNAP.

5. Payment of Benefits.

A. An Applicant shall select a Vendor that will deliver Home Energy to the Eligible Household. Payment of Benefits and TANF Fuel Supplemental Benefits will be made directly to the Vendor, unless otherwise specified, by the methods prescribed below:

1. For payment prior to delivery, MaineHousing, or a Subgrantee as allowed by MaineHousing, will pay a Benefit to the Vendor within ten (10) business days of the date the Application is certified eligible or when HEAP grant funds are available, whichever is later.
2. For payment post-delivery, MaineHousing, or a Subgrantee as allowed by MaineHousing, will provide a Credit Notification Report within ten (10) business days of the date the Application is certified eligible or when HEAP grant funds are available, whichever is later. The Credit Notification Report will list the Applicant's name, address, Home Energy type, account information and, as applicable, Benefit or TANF Fuel Supplemental Benefit. MaineHousing will make payment for Benefits after the Vendor makes delivery as authorized by MaineHousing.
3. For payment to wood vendors, MaineHousing, or a Subgrantee as allowed by MaineHousing, will make payment for a Benefit by direct check to the Applicant upon receipt of a signed Attestation from the Applicant attesting the Benefit received will be used for its intended purpose.

For Applicants with no available Vendors serving the area where the Household resides, MaineHousing, or the Subgrantee as allowed by MaineHousing, may pay Benefits directly to the Applicant upon receipt of a signed Attestation from the Applicant attesting the Benefit received will be used for its intended purpose

B. Payment of Benefits may be made directly to Applicants with an Indirect Determinable Energy Cost.

6. Benefit Returns and Transfer:

A. Program benefits may not be sold, transferred, released or otherwise conveyed by the Eligible Household or the Vendor without written authorization from MaineHousing. MaineHousing will only authorize such conveyances when it is in the best interest of the Eligible Household and is consistent with the intent of the HEAP Act. Examples of situations where MaineHousing may authorize such conveyances include, but are not limited to:

1. Relocation of all Household Members within the State;
2. Change in Vendor by Household;
3. Change in Home Energy vendors available to Household;
4. Relocation from a Dwelling Unit with a Direct Energy Cost to a Dwelling Unit with Indirect Determinable Energy Cost (not including Subsidized Housing);
5. Relocation to Subsidized Housing with Direct Energy Cost;
6. Change in Home Energy type; and

7. Applicant passes away and surviving Household Members remain in the Household.

Program benefits will only be available for reissue or transfer during the Program Year of issue up until March 31st of the Program Year immediately following.

- B. In order to reissue or transfer a Benefit MaineHousing may require the Household to provide an Application update form bearing the Applicant's signature and date. Failure to provide the information may result in delay or forfeiture of the Benefit.
- C. Program Benefits may not be eligible for reissue or transfer if the Applicant committed Errors and Program Abuse when completing the Application, there was an Overpayment, the Applicant's primary residence changes to a nursing home or long term care facility and there are no remaining Household Members, the Household moves to Subsidized Housing with heat included, the Applicant moves into another Household that received a Benefit in the current Program Year, the Household moves into an ineligible Dwelling Unit, the Program Benefit was not reissued before the deadline, the Applicant passes away and there are no surviving Household Members or the Household moves out of State.
- D. Vendors that receive a Benefit return form requesting the return of Benefits paid to Vendor on behalf of Eligible Households, shall return such Benefits to MaineHousing within fifteen (15) business days of date of Benefit return form. Once the funds are received, MaineHousing will process the reissue or transfer as appropriate within fifteen (15) calendar days of receiving all required documentation.

7. Energy Crisis Intervention Program (ECIP).

All ECIP services will be conducted by Subgrantees within their Service Area, unless otherwise authorized by MaineHousing, and will be subject to the availability of ECIP funds

- A. A Household may be eligible for ECIP if a Household Member's health and safety is threatened by an Energy Crisis situation on the Date of Application and the Household does not have the financial means to avert the Energy Crisis. The Household will not be eligible if: they have any other Heating System that is safe and operable and has a supply of product; they reside in Subsidized Housing with heat included or a Rental Unit with heat included (with the exception that if the Household has a utility disconnection notice that relates to the operation of the Heating System, they may receive ECIP to restore the utility); or they have an Overpayment balance and have not entered into or complied with a repayment agreement. An Eligible Household under HEAP is income eligible for ECIP.
- B. An Energy Crisis includes:
 - 1. Reading of 1/4 tank or less on a standard 275 gallon heating oil tank;
 - 2. Reading of 25% or less on a propane tank;
 - 3. 7-day or less supply for other delivered Home Energy types; and
 - 4. A utility disconnection notice that relates to the operation of the Heating System,
- C. Allowable expenditures may include:

1. Home Energy deliveries provided the Eligible Household has exhausted any remaining Benefits previously issued;
 2. Delivery charges associated with fuel deliveries under ECIP;
 3. Surcharges, reconnection charges, or penalties related to a final utility disconnect notice;
 4. Heating System repair, including restart fees;
 5. Purchase of space heaters;
 6. Temporary relocation provided the Eligible Household is experiencing a Life Threatening Crisis that cannot be averted within 18 hours by one of the above measures.
- D. ECIP will be administered pursuant to HEAP between November 1 and April 30. Conditioned on the availability of ECIP funds, Energy Crisis benefits will be provided within 48 hours of the Household being certified eligible and Life Threatening Crisis funds will be provided within 18 hours of the Household being certified eligible.
- E. ECIP benefits are determined each Program Year by MaineHousing based on Home Energy costs, economic conditions, and available funding.
- F. Any denial of ECIP benefits will be provided to the Applicant within three (3) business days.
- G. ECIP Payments.
1. Payment will be made after the vendor makes delivery and returns documentation required by MaineHousing to Subgrantee. MaineHousing will make payment within ten (10) business days of Subgrantee entering required information into the MaineHousing database.
8. Central Heating Improvement Program (CHIP).

All CHIP services will be conducted by Subgrantees within their Service Area, unless otherwise authorized by MaineHousing, and will be subject to the availability of HEAP funds.

A. Eligibility.

1. Household Eligibility.
 - a. A Household may be eligible for CHIP if the Household is eligible for HEAP, has an eligible Application that was certified within the preceding twelve (12) months, and does not have a more recent Application that has been certified-denied.
 - b. Eligible Households shall be served on a first-come, first-served basis with respect to each level of priority listed below, except when the Subgrantee is providing weatherization services to a Dwelling Unit in which case the Subgrantee can serve Eligible Households that allow the Subgrantee to leverage CHIP funds first. Subgrantees may prioritize within the priority levels listed below by Households that have a Household Member that (i) is 60 years of age or older, (ii) has a disability, or (iii) is 6 years or younger.

- i. Eligible Households experiencing an Energy Crisis caused by Heating System malfunction or failure.
- ii. Non-wood Heating Systems that cannot achieve a minimum steady state efficiency of 70% (as determined by an evaluation of a Heating System).
- iii. Preventative cleaning, tuning, evaluation and minor repairs on a non-emergency basis (owner-occupied dwelling units only). Date of the last cleaning, tuning and evaluation by a licensed technician must be more than twelve (12) months prior to the initiation of services date.

B. Dwelling Unit Eligibility.

1. Ownership will be verified for all Dwelling Units and Rental Units and additional documentation or written permission may be required for life estates and life leases or tenants.
 - a. A Dwelling Unit that has a life estate or life lease interest may be eligible if the document conferring the Applicant rights of the life estate or life lease is recorded in the appropriate registry of deeds and states that the Applicant is responsible for maintaining the Dwelling Unit or is silent as to who is responsible for maintenance.
2. A Dwelling Unit will not be eligible under CHIP if: it is a Rental Unit that has reached the life-time maximum benefit, it has been designated for acquisition or clearance by a federal state or local program or order, it is in foreclosure, for sale, vacant, uninhabitable, it is in poor structural condition making CHIP services impractical, ineffective or impossible, it has been damaged by fire, flood or an act of God and insurance will cover the damage, there are discrepancies on the Household's Application, there is evidence that the Heating System was not properly maintained or the Household applied for services for more than one Dwelling Unit and did not provide the required information.

C. Heating System Replacement Eligibility. A Household may be eligible for assistance to replace a Heating System if the Household meets the eligibility requirements for CHIP. The amount of assistance shall be determined by subtracting the sum of the contributions towards the Heating System replacement cost by the Household and any person who shares a legal ownership interest in the Dwelling Unit, but does not reside in the Dwelling Unit ("Non-occupying Co-owner").

1. Contributions. The Household and Non-occupying Co-owner (if applicable) will be required to contribute toward the cost of replacing the Heating System if there are Countable Assets in excess of \$5,000, or \$50,000 if a member of the Household or the Non-occupying Co-owner is 60 years of age or older. Countable Assets include cash, funds on prepaid debit cards, money in a checking or savings account (health savings accounts, educational funds, and burial accounts are excluded), stocks or bonds, U.S. Treasury bills, money market funds and retirement accounts (provided there are no penalties for withdrawals). The amount of the contribution is determined for the Household and the Non-occupying Co-owner separately by subtracting either \$5,000 or \$50,000 (as applicable) from total Countable Assets and multiplying that number by the percentage of ownership. All contributions are subtracted from the total Heating System replacement cost to determine the CHIP benefit amount.

D. CHIP Uses.

1. CHIP allowable uses include cleaning, tuning and evaluating oil, gas or solid fuel systems, replacing oil or gas burners and cracked heat exchangers, replacing oil, gas, electric or solid fuel Heating Systems, scaling and installing electrical or mechanical Heating System ignition systems, replacing or relocating thermostats and anticipator adjustment, baffling of combustion chamber, optimizing firing rate, cleaning chimneys, smoke alarms, fire extinguishers, carbon monoxide and gas detectors, oil tanks and gauges, temporary relocation in Life Threatening Crisis situations that cannot be adequately address by ECIP measures, measures to bring a Heating System in compliance with applicable laws and codes or to correct measures that pose an immediate health or safety threat.
2. CHIP may not be used as reimbursement or payment for costs incurred by the Applicant, replacement of a Heating System that was previously replaced by CHIP unless the Heating System has reached its useful life as defined by: https://www.hud.gov/sites/documents/EUL_FOR_CNA_E_TOOL.PDF, or for fuel switching.

E. CHIP Benefit Maximums

1. Single-Family Owner-Occupied Dwelling Units. There is no life-time maximum benefit amount for an Eligible Household.
2. Single-Family Rental Units occupied by an Eligible Household. There is a life-time maximum benefit of \$600.
3. Multi-Family Rental Units. The maximum benefit is the lesser of \$600 times the number of Heating Systems that provide heat to Eligible Households or \$2,400.

F. Subgrantee Responsibilities.

1. Subgrantees are responsible for performing final inspections on all CHIP services for heating replacement jobs. The inspections will evaluate compliance with all applicable codes, confirm the work performed was authorized and determine the combustion efficiency level of the Heating System where technically feasible.
2. Subgrantees are responsible for procuring all services, including materials, equipment and services from specialized trades, such as electricians, masons and oil burner repairman, and shall follow the procedures below:

Amount	Requirements	Notes
\$10,000 or less	Solicit by phone, email, vendor website, catalog, or price list, or similar means one price quote.	If Subgrantee considers the quoted price reasonable based on one or more factors, such as recent purchases of, or research on, goods or services of the same kind or related knowledge or experience, no further solicitation is required. If the quote price is not reasonable, solicit two

		price quotes by similar means.
Over \$10,000	Perform a price survey by making every reasonable attempt to receive price quotations or bids from at least three (3) Contractors.	Choose the lowest quote or bid while taking into consideration the Contractor's performance record and other relevant factors.

3. Subgrantees are also responsible for procuring Contractors and shall follow the procedures below:
 - a. Prepare an Invitation to Bid or a Request for Proposal that identifies all requirements and factors to be considered including a due date for bids;
 - b. Mail, fax or email the Invitation to Bid or Request for Proposal to at least three (3) contractors; and
 - c. Receive by mail, fax or email by the due date all bids and keep bids in a secure location to be reviewed and tabulated.

4. Sole Source Procurement. A Subgrantee may solicit a proposal from only one source if the following circumstances are met:
 - a. Emergency or Urgent Need. An emergency situation or other urgent need exists and only one known source can provide the required goods or services within the time needed.
 - b. Uniqueness. The item or service is available from only one source, based on a reasonable, good faith review of the market for the type of item or service needed.
 - c. Inadequate Competitive Proposals. After evaluation of all proposals submitted in a competitive procurement, all proposals are determined to be inadequate.

Subgrantee shall submit a written statement justifying the sole source procurement for any procurement over \$10,000 to MaineHousing prior to the installation of services.

5. Records. Copies of all procurement records, including sole source procurement documents, correspondence, factors considered and the basis for selection must be kept in the Subgrantee's files.
9. HEAP Weatherization.

Weatherization measures must be installed in accordance with the Maine Weatherization Standards. When HEAP Weatherization is used in conjunction with U.S. Department of Energy (DOE) funds, [10 C.F.R. Part 440](#), will govern with the exception to variations listed and approved in the LIHEAP State Model Plan Weatherization Assistance Section.

All HEAP Weatherization services will be conducted by Subgrantees within their Service Area, unless otherwise authorized by MaineHousing, and will be subject to the availability of HEAP funds.

A. Eligibility.

1. Household Eligibility. A Household may be eligible for HEAP Weatherization if the

Household is eligible for HEAP, has an eligible Application that was certified within the preceding twelve (12) month, and does not have a more recent Application that has been certified-denied.

2. Dwelling Unit Eligibility. Ownership will be verified for all Dwelling Units and Rental Units and additional documentation or written permission may be required for life estates and life leases or tenants.
 - a. A Dwelling Unit that has a life estate or life lease interest may be eligible if the document conferring the Applicant rights of the life estate or life lease is recorded in the appropriate registry of deeds and states that the Applicant is responsible for maintaining the Dwelling Unit or is silent as to who is responsible for maintenance.
 - b. A Dwelling Unit will not be eligible under HEAP Weatherization if the Dwelling Unit received weatherization services under HEAP Weatherization or another MaineHousing program within fifteen (15) years of the date of Application, it has been designated for acquisition or clearance by a federal state or local program or order, it is in foreclosure, for sale, vacant, uninhabitable, it is in poor structural condition making HEAP Weatherization services impractical, ineffective or impossible, it has been damaged by fire, flood or an act of God and insurance will cover the damage, or there are discrepancies on the Household's Application.
 - c. A Dwelling Unit that was previously weatherized may be reopened if the reopening occurs within six (6) months of completion of the original weatherization service and reopening is required because the previous services are the proximate cause of an immediate threat to the health and safety of the occupants or the quality of the weatherization material or installation is deficient as determined by MaineHousing.

B. HEAP Weatherization Uses:

1. HEAP Weatherization allowable uses include: Weatherization needs assessments/audits; air sealing and insulation, storm windows, Heating System modifications/repairs/replacements, Heating System cleaning, tuning and evaluating, compact florescent light bulbs and LED light bulbs, energy related roof repairs, major appliance repairs/replacements, including water heaters, up to two appliances, with one being a water heater, incidental repairs, health and safety measures, replacement windows and doors after all reasonable repair options are considered.

C. Subgrantee Responsibilities.

1. Subgrantees must conduct a public bid process to secure weatherization contractors at least annually as prescribed by MaineHousing.

10. Heat Pump Program.

All Heat Pump Program services will be conducted by Subgrantees within their Service Area, unless otherwise authorized by MaineHousing, and will be subject to the availability of HEAP funds.

A. Eligibility.

1. Household Eligibility. A Household may be eligible for the Heat Pump Program if the Household is eligible for HEAP, has an eligible Application that was certified within the preceding twelve (12) month, does not have a more recent Application that has been certified-denied and has a working primary Heating System.
2. Dwelling Unit Eligibility.
 - a. Ownership will be verified for all Dwelling Units and for Dwelling Units that have a life estate or life lease interest, the document conferring the Applicant rights of the life estate or life lease must be recorded in the appropriate registry of deeds and state that the Applicant is responsible for maintaining the Dwelling Unit or is silent as to who is responsible for maintenance.
 - b. A Dwelling Unit will not be eligible under the Heat Pump Program if the Dwelling Unit is already equipped with a heat pump, it has been designated for acquisition or clearance by a federal state or local program or order, it is in foreclosure, for sale, vacant, uninhabitable, it is in poor structural condition making the installation of a heat pump impractical or there are discrepancies on the Household's Application.
3. Heat Pump Program Uses
 - a. Heat Pump Program allowable uses include the installation of a heat pump and electric subpanel for the heat pump if needed.

11. Administration of the Programs.

A. MaineHousing's Responsibilities.

1. MaineHousing will prepare and submit to the Secretary of the United States Department of Health and Human Services an annual State Plan for HEAP in conformity with the provisions of the HEAP Act after conducting a public hearing for the purpose of taking comments.
2. MaineHousing will maintain this Rule, the HEAP Handbook and any other guidance and documents that relate to the administration of the Programs.
3. MaineHousing will contract with Subgrantees and other entities to administer the Programs and may, at its discretion, make payments to Eligible Households or Vendors or provide Supplemental Benefits to the extent available. MaineHousing will assign at least one Subgrantee to each Service Area to administer the Programs and will select Subgrantees annually based on applications received by June 1st outlining the Subgrantee's: experience in administering the Programs or similar programs; capacity; availability of other qualified entities within a Service Area; cost efficiency; ability to enhance accessibility to the Programs; schedule for taking Applications; and ability to perform outreach and serve homebound Applicants.
4. MaineHousing will determine the annual allocation of HEAP funds to each Subgrantee, not including any amount allocated to MaineHousing to pay Benefits.
5. MaineHousing will conduct program and fiscal monitoring of Subgrantees and Vendors to ensure compliance with all rules, regulations and laws applicable to this Rule.

B. Subgrantee, Vendor and Contractor Responsibilities.

1. Subgrantees, Vendors and Contractors are responsible for the following:
 - a. Conflict of Interest. No employee, officer, board member, agent, consultant or other representative of Subgrantee, Vendor, or Contractor who exercises or has exercised any function or responsibility with respect to Programs' activities or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from Programs' activities or have an interest in any contract, subcontract or agreement regarding the Programs' activities, or the proceeds there under, which benefits him or her or any person with whom he or she has business or family ties. Subgrantees, Vendors, and Contractors shall notify MaineHousing of any potential conflict of interest.
 - b. Confidentiality. Subgrantees, Vendors, Contractors, and their employees and agents shall keep confidential Applicant or Household information obtained in the administration of the Programs, including without limitation, an individual's name, address and phone number, household income, assets or other financial information, and benefits received ("Confidential Information") and shall safeguard and protect from disclosure at all times Confidential Information.
 - c. Prohibited Discrimination. Subgrantees, Vendors, Contractors, and their employees and agents are prohibited from discriminating against any Household applying for or receiving goods or services in accordance with this Rule.
2. Subgrantees responsibilities also include, but are not limited to, the following as further defined in the annual Subgrant Agreement between MaineHousing and Subgrantees and in accordance with the HEAP Act and this Rule:
 - a. Conduct outreach, accept and verify Applications, determine Household eligibility, pay Benefits, coordinate with MaineHousing on denials and requests for Informal Review and Fair Hearing, use MaineHousing's database software and equipment, address emergencies, cost effectively administer and operate the Programs, prioritize Eligible Households where required, coordinate services between Programs, submit production schedules, work plans, budgets, monthly status reports, and billing information to MaineHousing, use forms provided by MaineHousing, make reasonable accommodations upon request for a Person with a Disability, follow procurement requirements as may be required by 45 C.F.R. §§ 75.327 – 75.335 and 45 C.F.R. §§ 75.316-753.23, and inform Applicants of their rights to request an Informal Review and Fair Hearing;
 - b. Maintain comprehensive, accurate and separate documentation, payroll reports, financial statements, and other records in connection with its administration of the Programs including at a minimum, the amount and disposition of the Programs' funds received by the Subgrantee and the total cost necessary to administer the Programs and provide MaineHousing with copies of any such records as requested and maintain such records for a minimum of three (3) years from the end of the relevant contract period or a longer period as prescribed by MaineHousing. In cases of litigation, other claims, audits, or other disputes the Subgrantee will retain all relevant records for at least one (1) year after the final disposition thereof;
 - c. Provide an annual budget prior to each Program Year and within ninety (90)

calendar days of the close of Subgrantee’s fiscal year furnish to MaineHousing an annual financial statement prepared by an independent certified public accountant in accordance with 45 C.F.R. Part 75, Subpart F.

- C. **Administrative and Program Expenses.** Subgrantees shall be permitted administrative and program expenses necessary to carry out their responsibilities under this Rule and the Programs. Such expenses will be allowed in a manner consistent with the provisions of the HEAP Act and must be reasonable in amount as determined by MaineHousing. Administrative expenses for the Program Year may be spent only between October 1 and the following September 30 of the applicable Program Year, unless otherwise authorized. Allowable administrative and program expenses for each of the Programs are listed below. Other expenses may be allowed if authorized by MaineHousing before the expenses are incurred.

Fuel Assistance and ECIP	Expense Category
Salary and fringe benefit costs for the actual time an individual performs intake, processing, or eligibility determination functions associated with an active Application	Program
Salary and fringe benefit costs for the actual time an individual participates in administering Fuel Assistance or ECIP and is not performing functions associated with an active Application	Program
Salary and fringe benefits and other related and reasonable costs for specific HEAP and ECIP training and professional development of individuals performing intake, application processing, eligibility determination, and administration of HEAP fuel assistance and ECIP	Program
Space costs/rent, telephone, copier/printing, office supplies, postage, transportation/travel, data processing/computer costs, equipment repairs and maintenance, equipment purchase/lease, and consultants/professional services associated with the above referenced activities.	Program
Indirect costs	Administrative
Salary and fringe benefits and other related and reasonable costs for specific HEAP and ECIP training and professional development for individuals whose salary and fringe benefits are budgeted directly to Administrative Costs or for whom salary and fringe are included in the agency’s Indirect Rate	Administrative
Salary and fringe costs, space costs, rent, telephone, copying, printing, office supplies, postage, transportation, travel, data processing, computer costs, equipment repairs and maintenance, equipment purchase or lease, consultant fees and professional services associated with the administration of HEAP not included in the agency’s Indirect Rate or allowable from program funding	Administrative
HEAP Weatherization, CHIP, and Heat Pump Program	Expense Category
Material/labor costs for Heating system repairs/replacements and measures installed as part of weatherization	Program
Either salary and fringe benefit costs for the actual time staff participates in administering HEAP Weatherization, CHIP, Heat Pump Program or a program management fee established by MaineHousing.	Program

Space costs/rent, telephone, copier/printing, office supplies, postage, transportation/travel, equipment purchase/lease, liability insurance, pollution occurrence insurance, and consultants/professional services.	Program
Indirect costs	Administrative
Assurance 16 Services	Expense Category
Salary and fringe benefit costs for staff providing direct services and the direct administrative costs associated with providing the services, such as the costs for supplies, equipment, travel, postage, utilities, rental and maintenance of office space	Program
Indirect costs	Administrative

1. Assurance 16 Activities. Subgrantees may submit annual proposals, for MaineHousing’s consideration, describing their planned activities and expenses associated with providing services to Applicants pursuant to Assurance 16 of the HEAP Act. Administration of Assurance 16 Activities will be conditioned on the availability of HEAP funds.

D. Vendors.

1. Eligibility. In order to participate in the Programs Vendors must demonstrate the capacity and stability of their business and supply a credit report and business plan to MaineHousing’s satisfaction. Vendors must also show they have been in business for one year prior to enrolling to participate. MaineHousing reserves the right to exclude Vendors in certain situations, including but not limited to, bankruptcies or judgments and prior Program terminations, violations and defaults.
2. Enrollment. Upon approval of a Vendor, Vendors may enter into a Vendor Agreement during the time period as prescribed by MaineHousing. Returning Vendors may reenroll each Program Year as prescribed by MaineHousing contingent upon performance and compliance in previous Program Years.
3. Use of Benefits. Benefits may not:
 - a. Be sold, released, transferred or otherwise conveyed without written authorization from MaineHousing;
 - b. Be used to pay Incidental Costs Benefits;
 - c. Be used to deliver a different Home Energy product than the one authorized by MaineHousing or
 - d. Be used to deliver Home Energy products to a Household that is moving, has a Heating System experiencing mechanical difficulties or has storage tanks that need replacement or do not meet code.

For electricity and natural gas, Vendors may apply Benefits to past due charges for Home Energy deliveries with the oldest charges being paid first.

4. Annual Consumption Report. As part of the Annual Consumption Report process, Vendors must review Eligible Household accounts and identify any remaining Benefits that were issued in or prior to the preceding Program Year. All such unused Benefits must be returned to MaineHousing no later than June 30.

5. Return of Payments. Upon receipt of a Benefit Return form Vendor shall return such Benefits to MaineHousing or Subgrantee within fifteen (15) business days of the date of the Benefit Return form. If any of the following events occur, Vendor shall within fifteen (15) business days of becoming aware, submit to MaineHousing a completed Benefit Return form and return any Benefits paid to Vendor:
 - a. Death of an individual who is a sole member of an Eligible Household;
 - b. Institutionalization of an individual who was the sole member of an Eligible Household;
 - c. Vendor's receipt of a written notice from an Eligible Household that it no longer desires to receive Home Energy deliveries from Vendor;
 - d. An Eligible Household has not received deliveries of Home Energy for twelve (12) consecutive months;
 - e. An Eligible Household has moved out of Vendor's Service Area;
 - f. An Eligible Household has moved out of State;
 - g. Vendor has been paid an excessive Benefit on behalf of the Eligible Household.

For Benefits with a balance of less than \$25, Vendors may aggregate remaining Benefits and return the balance to MaineHousing when the Annual Consumption Report is submitted.

All Benefit Return forms should be accompanied by documentation evidencing: the name and address of the Vendor, the name and address of the Eligible Household; the Eligible Household's account number; the Benefit amount being returned; a concise explanation for the return of funds; a detailed account history showing delivery activity and payment for the twelve (12) months prior; and any other documentation requested by MaineHousing.

E. Noncompliance.

1. MaineHousing shall have the right to terminate or suspend in whole or in part the Subgrantee Agreement in its sole discretion if it determines the Subgrantee has failed to comply with any provision of this Rule, the Subgrantee Agreement, the HEAP Handbook, or the provisions of other applicable law. A written notice will be sent to Subgrantee and shall set forth as applicable, the reason for termination, the specific violations and any suspensions. For non-compliance not resulting in termination or suspension a written notice setting forth the specific violation and cure period will be provided to Subgrantee. In situations of malfeasance or misfeasance MaineHousing may bar a Subgrantee's participation in the Programs.
2. MaineHousing shall have the right to terminate a Vendor for failure to comply with the terms of the Vendor Agreement, State law concerning consumer home heating rights as prescribed by the Office of the Maine Attorney General, documentation, audit/investigation requirements and the requirements of this Rule. In situations of malfeasance or misfeasance MaineHousing may bar a Vendor's participation in the Programs and pursue any other remedies available under the law. MaineHousing may also choose to place the Vendor on a watch list and monitor Vendor's performance.

12. Native American Tribal Organizations.

Native American Tribal Organizations means the Penobscot Indian Nation, the Passamaquoddy Indian Tribe and the Houlton Band of Maliseet Indians as defined in the Maine Indian Claims Settlement Act, [30 M.R.S. §6201 et](#)

[seq.](#), and the Aroostook Band of Micmacs as defined in the Micmac Settlement Act, [30 M.R.S. §7201](#) et seq.

- A. Direct Allocation to Native American Tribal Organizations. Native American Tribal Organizations may receive a direct allocation of HEAP funds from the Secretary of the United States Department of Health and Human Services pursuant to the HEAP Act. The amount of the direct allocation is determined by the percentage of Maine's total annual LIHEAP award that MaineHousing indicates will be awarded to Maine's Native American Tribal Organizations. In its determination MaineHousing will consider the number of Eligible Households during the previous Program Year that include Household Members who are members of the Native American Tribal Organization, when that information is available.
- B. Agreements with Native American Tribal Organizations. When a Native American Tribal Organization receives a direct allocation of Fuel Assistance and ECIP, MaineHousing will enter into an agreement with the Native American Tribal Organization that, at a minimum, provides for the coordination of services and administration of the Fuel Assistance and ECIP by the Native American Tribal Organization and Subgrantees to prevent duplication of services.

13. Informal Review and Fair Hearing.

- A. Informal Review. For any dispute other than a dispute regarding TANF Fuel Supplemental Benefits (which are not subject to Informal Review), the Applicant must submit a written request for an Informal Review no later than:
 1. Thirty (30) calendar days from the postmarked date of the denial notification or the benefit notification;
 2. Ninety (90) calendar days from the Date of Application, if the Application has not been approved or denied; or
 3. Ninety (90) calendar days from the postmarked date of the request for refund of an Overpayment.

Written requests for Informal Review may be mailed to MaineHousing, 26 Edison Drive, Augusta, Maine 04330; or emailed to LIHEAPcompliance@mainehousing.org. The Informal Review will be conducted by a person other than the one who made or approved the decision under review. MaineHousing will review the file, conduct necessary research, and give the Applicant an opportunity to present written or oral objections. In rendering a decision MaineHousing will evaluate the accuracy of the calculations, the level of documentation provided by the Applicant, and the accuracy of the decision. MaineHousing will communicate the results of the research/review to the Applicant. If the Applicant does not agree with the results of the Informal Review the Applicant may submit a written request for a Fair Hearing, but only in the following limited circumstances: the Applicant's claim for assistance was denied or not acted upon with reasonable promptness (meaning it was not certified or denied within the required time-frame outline in this Rule or as approved by waiver); the Applicant disputes the criteria used to calculate the amount of their Benefit; or the Applicant is required to refund an Overpayment.

- B. Fair Hearing.
 1. Pursuant to the HEAP Act, [42 U.S.C. §8624\(b\)\(13\)](#), MaineHousing will provide an Applicant an opportunity for a fair administrative hearing. Fair hearings shall be conducted in accordance with the Maine Administrative Procedures Act, Title 5, Chapter 375 by the Director of MaineHousing (or their designee) or such other contractor selected by MaineHousing. The parties may receive a transcript of the hearing upon payment of the reasonable cost for the production thereof.

2. Within thirty (30) calendar days of the hearing's conclusion the hearing officer will prepare a recommended hearing decision. Copies of the recommended decision will be provided to the Applicant.
3. A final decision and order will be made by the Director of MaineHousing in writing within sixty (60) calendar days of receipt of the hearing officer's recommendation. In the event the Director of MaineHousing presides over a hearing, they shall render their decision and order within sixty (60) calendar days of the hearing's conclusion or sixty (60) calendar days of the recommended decision. The Director's decision and order shall include findings of fact sufficient to apprise the parties of its basis. A copy of the decision and order will be provided promptly to each party to the proceeding or their representative of record. Written notice of the party's right to appeal the decision and other relevant information will be provided to the parties at the time of the decision and order. The decision and order will be implemented by the Subgrantee no later than ten (10) calendar days after receipt if it is in the Applicant's favor and otherwise forty-five (45) calendar days unless stayed on appeal.

14. Errors and Program Abuse.

- A. Reporting Errors and Program Abuse. Subgrantees are required to report any suspected or alleged Errors or Program Abuse. Any individual may also report suspected Errors or Program Abuse by telephone 1-800-452-4668 or (207) 626-4600, in writing to MaineHousing, Attn: HEAP Errors and Program Abuse, 26 Edison Drive, Augusta, ME 04330 or by email at LIHEAPcompliance@mainehousing.org. Any report should include at minimum, the name and address of the person being reported and any details of the suspected Errors and Program Abuse.
- B. Investigation. MaineHousing will investigate all reported and alleged Errors and Program Abuse and may investigate the previous three (3) Program Years and may place Benefits on hold during the investigation. Applicants will be notified and given the opportunity to respond and provide additional documentation. MaineHousing will make a determination on the appropriate action, based on the response. If an Applicant fails to respond or fails to provide the documentation requested, the Applicant may be subject to denial, an Overpayment or other actions available under the law. If Errors and Program Abuse are confirmed or Applicant fails to respond, Applicant will receive a written notification outlining the facts of the decision, the reason for the decision, the Overpayment due (if applicable), and any avenue available to request an Informal Review or Fair Hearing. If MaineHousing determines the Errors were at no fault of the Applicant, MaineHousing will not require an Overpayment from the Applicant.
- C. Overpayments. If an Applicant is required to pay an Overpayment (including any Overpayments due from the previous three (3) Program Years) the Applicant may pay the full amount of the Overpayment, enter into an agreeable payment arrangement and/or be subject to recoupment by MaineHousing. MaineHousing may exercise its right to recoup Overpayments by collecting up to 100% of a Household's current Program Year's Benefit and 50% of a Household's future Program Years' Benefits until the Overpayment has been paid in full.

15. Waivers of the Rule and HEAP Handbook.

MaineHousing will only grant waivers of the Rule and/or HEAP Handbook in very limited circumstances. The below is a list of the only provisions that will be considered for a waiver. Consideration does not mean the waiver will be granted. Any grant of a waiver is at MaineHousing's discretion.

- A. Subgrantee must certify or deny an Application within thirty (30) business days from the Date of Application.

1. **MaineHousing will consider providing a waiver up to forty-five (45) business days.**
- B. Program benefits will only be available for reissue or transfer during the Program Year of issue up until March 31st of the Program Year immediately following.
 1. **MaineHousing will consider extending the deadline to April 15th for good cause.**
- C. ECIP will be administered pursuant to HEAP between November 1 and April 30.
 1. **Depending on the availability of funds and other factors MaineHousing may extend the April 30th ECIP end date.**
- D. Applications will be voided in HEAP System of Record if the signed application is not received within twenty (20) business days of the date of the interview with the Subgrantee.
 1. **MaineHousing will consider extending the deadline to thirty (30) business days.**
- E. A denial for missing information will be rescinded if the required information is received by the Subgrantee within (15) fifteen business days from the date of written notification of denial.
 1. **MaineHousing will consider extending the deadline to twenty-five (25) business days.**
- F. CHIP may not be used as reimbursement or payment for costs incurred by the Applicant, replacement of a Heating System that was previously replaced by CHIP unless the Heating System has reached its useful life as defined by: https://www.hud.gov/sites/documents/EUL_FOR_CNA_E_TOOL.PDF, or for fuel switching.
 1. **In the case of replacing a Heating System before the end of its useful life or fuel switching, in limited circumstances, MaineHousing may consider a waiver on a case-by-case basis review.**
- G. HEAP Weatherization does not allow fuel switching when replacing a Heating System.
 1. **MaineHousing may consider a waiver on a case-by-case basis review.**

STATUTORY AUTHORITY: 30-A M.R.S. §§4722(1)(W), 4741(1) and (15), and 4991 et seq.; 42 U.S.C. §§8621, et seq.

BASIS STATEMENT: This replacement rule repeals and replaces in its entirety the current Home Energy Assistance Program Rule. The rule establishes standards for administering fuel assistance, emergency fuel assistance, TANF Fuel Supplemental Benefits, weatherization, heat pumps, and heating system repair and replacement funds to income eligible households in the State of Maine. This replacement rule: removes unnecessary definitions and language from the Rule and places it within the HEAP Handbook and other relevant guidance; clarifies existing definitions; modifies the requirements for Categorical Income Eligibility; reorganizes the sections for a more logical flow; adds additional alternatives to the allowable documentation Applicants must provide to verify citizenship/legal status, identity and social security numbers; establishes a new points system for determining Benefits that will assist with the move to mostly online Applications; and clarifies the limited circumstances in which MaineHousing will allow a waiver of the Rule.

PUBLIC COMMENT:

Process:

Notice of Agency Rule-making Proposal (MAPA-3) was submitted to the Secretary of State for publication in the May 1, 2024 edition of the appropriate newspapers. Additionally, MaineHousing sent the proposed rule to Interested Parties on May 7, 2024 and published the proposed rule on its website on May 1, 2024. MaineHousing held a public hearing on May 21, 2024. The comment period was held open until May 31, 2024 at 5:00 PM.

Summary of Comments and Responses to Comments:

Comment: Christina Link, Director of Housing and Energy Services for The Opportunity Alliance provided testimony at the public hearing in support of the proposed changes to the Rule. Christina thanked MaineHousing for working with The Opportunity Alliance this year to allow: applicants to choose their requested fuel type; applicants with a negative heat burden to have access to ECIP funds; and benefits to be paid out before the start of the ECIP season.

MaineHousing's Response: MaineHousing appreciates the support.

Comment: Christina Link, also endorsed the change to categorical income eligibility that would require household members not listed on a SNAP Notice of Decision from DHHS to provide income documentation for eligibility verification.

MaineHousing's Response: MaineHousing appreciates the support.

Comment: Christina Link further endorsed the change to the calculation of benefits, moving away from consumption and design heat load to a points system that she feels will streamline the application process, lessen subjectivity and make it easier for applicants to better anticipate their benefits from year to year.

MaineHousing's Response: MaineHousing appreciates the support.

Comment: Chris Hastedt, Senior Policy Advisor for Maine Equal Justice provided testimony at the public hearing thanking MaineHousing for the work it had done to improve the Rule and solicit advice from interested parties. Chris commented that Maine Equal Justice had concerns about the processing of applications in a timely manner and asked MaineHousing to consider changing to Rule to require a written determination of eligibility within ten (10) days regardless of whether funds are available or not.

MaineHousing's Response: MaineHousing appreciates the suggestion, however, providing a determination of eligibility for a Program that does not have any funds creates an expectation of receipt of benefits and if the Program were not funded all of the individuals that were told they were eligible would then be told their applications were denied. This could significantly increase the number of denials and/or fair hearings and create an administrative burden. Additionally, the benefit notification process is currently tied to the payment process. So by providing a determination of eligibility, it would trigger the benefit notification process even in situations where funding is not available.

Comment: Chris Hastedt also commented on Household Eligibility as it relates to Citizenship Status and asked MaineHousing to consider providing benefits in situations where not all of the household members are qualified and the ability to prorate a benefit is not possible. As an example Chris referenced the Central Heating Improvement Program and a household's need for a furnace repair, which cannot be provided to just one individual. Chris asserted there is Federal guidance that suggests in those circumstances a benefit could be provided to the household even if the household includes individuals that are not eligible for HEAP.

MaineHousing's Response: Section 3, Eligibility, states that if the Applicant or any Household Member does not meet the citizenship requirement, they must be excluded from the total number of Household Members when calculating a Fuel Assistance Benefit. This prorates the Fuel Assistance Benefit based on the number of eligible Household Members. For CHIP the eligibility is based on whether or not the Household was eligible for HEAP as a whole, had an eligible

Application that was certified within the preceding 12 months and did not have a more recent Application that had been certified denied. This is not based on proration and a Household that includes Household Members that are not eligible for HEAP can still receive benefits under CHIP. The same is true for HEAP Weatherization and the Heat Pump Program. ECIP also allows a Household as a whole to receive a benefit if a Household Member's health and safety is threatened. There is no restriction on receiving benefits if some of the Household Members are not HEAP eligible.

Comment: Chris Hastedt provided testimony and written comments as follows:

- 1) Asked MaineHousing to consider revising the Rule to allow benefits to be paid to individuals living in campers or RVs. Chris emphasized the statutory goal of LIHEAP is to provide benefits to those of the lowest income with the highest heat burden. Chris indicated Vermont and New Hampshire had begun providing benefits to these individuals, but that not much data was available at this time. Chris addressed a number of concerns such as safety, overburdening of the Program and impact on other programs by saying that MaineHousing could address these through Rulemaking and advocacy by creating regulatory standards for safety, asking the governor for more money and excluding these individuals from other programs. Chris also noted that LIAP currently allows campers if residential electric is being provided on a year round basis.
- 2) Attached comments from Suzy Young, an individual residing in an RV. The comments state Suzy does not understand why MaineHousing has chosen to make families living in RVs ineligible for LIHEAP. Suzy's RV is permanently attached to the earth, electricity, a septic tank and a well pump and pressure tank and is a permanent year-round home. The local Code Enforcement Officer inspected the RV and issued a Certificate of Occupancy. While the RV may still have wheels it is not moving.
- 3) Attached a Memorandum dated March 8, 2024, addressed to MaineHousing regarding the authority to implement LIHEAP changes to include Mainers living in campers. The Memorandum states MaineHousing has the authority under federal and state law to include campers in the definition of "dwelling unit." In support of this comment, the Memorandum states neither dwelling nor dwelling unit is defined in the LIHEAP statute or State law and therefore MaineHousing has the authority to define the term. The Memorandum urges MaineHousing to align its definition of dwelling unit with neighboring states such as New Hampshire and Vermont, who have specifically included certain campers in their respective LIHEAP Programs. The Memorandum also provides that the Low Income Assistance Program which helps low-income Mainers with their electricity allows campers to receive benefits.

MaineHousing's Response: MaineHousing acknowledges that some States have chosen to include campers as eligible dwellings for the purpose of LIHEAP and acknowledges that the LIHEAP statute does not provide clear guidance on the definition of a dwelling unit, which leaves the definition open for interpretation by individual States. The laws in New Hampshire and Vermont define the term "dwelling unit" differently from Maine law. In setting its definition of dwelling unit for the purposes of the Rule, MaineHousing looked to federal law, Maine law and other program guidance to establish a definition that was consistent with already existing definitions and MaineHousing's other programs. The definition of dwelling unit has consistently excluded campers, boats, yurts and other structures designed and constructed to provide temporary living quarters for over twenty-four years. Similarly, MaineHousing has operated a number of other programs through the same lens, not allowing campers to be deemed eligible dwelling units. A change to LIHEAP would be inconsistent with other MaineHousing programs. It would also allow campers and other temporary living quarters to qualify for HEAP Weatherization, the Central Heating Improvement Program and the Heat Pump Program. MaineHousing does not believe it is feasible to provide these services to campers and other temporary living quarters based on the nature and construction, which is designed to provide temporary living quarters for recreational, camping, travel or other use. While MaineHousing appreciates the suggestion that campers and temporary living quarters could be excluded from other programs, doing so would require additional rulemaking and coordination with other non-MaineHousing programs that use LIHEAP as eligibility for their own programs. Additionally, the suggestion that MaineHousing could create regulatory standards to determine some campers eligible as dwelling units, but exclude all other types of campers and temporary living quarters, is not feasible and would be burdensome to verify and enforce to ensure cars, boats, yurts and other temporary living quarters could not meet those standards. Additionally, with the latitude provided to municipalities throughout the State to determine when a certificate of occupancy may be issued, it would be near impossible to create a

standard that is fair across the board as some municipalities may refuse to recognize a camper as a dwelling unit.

LIAP is run by the Maine Public Utilities Commission. It is not a MaineHousing program. Eligibility for LIAP is based on eligibility for LIHEAP and/or participation in a DHHS means tested programs with a household income at or less than 150% of the Federal Poverty Guidelines. A camper would not be eligible for LIHEAP, which means eligibility would have to be verified by participation in a DHHS means tested programs, which looks at income versus the status of a dwelling unit. The LIAP application for customers who participate in a DHHS program asks nothing about the type of dwelling unit and instead asks for the address, name of the utility provider and the utility account number. So as long as the household has a utility account and is paying for and receiving electricity, it qualifies. There is no dwelling unit eligibility, which is substantially different from LIHEAP.

In the last two years the number of applications MaineHousing has received for LIHEAP has increased by over 160% and the amount of funding MaineHousing has received for LIHEAP has decreased significantly with the termination of supplemental benefits and the return to the regular amount of funding. LIHEAP funding does not increase based on the number of applicants and MaineHousing expects the number of applications to continue to increase. MaineHousing already cannot serve all of the applicants who have applied for LIHEAP and for those MaineHousing can serve, the average benefit has been cut by more than 50%. Opening the door to allow temporary living quarters originally designed and constructed for recreational, camping, travel or other use to be determined eligible dwelling units, would only further reduce benefits to individuals residing in permanent living quarters. While MaineHousing may advocate for additional funding when the opportunity presents itself, there is no guaranty that additional funding will be provided and even if it were provided, there is no guaranty it would be provided on a consistent ongoing basis.

Comment: Chris Hastedt commented on Income Eligibility stating that the current Rule looks at the most recent or 1 month income and that this is no longer in the Rule. Chris asked MaineHousing to include a provision in the Rule regarding what income is going to be considered and asked MaineHousing to consider excluding terminated sources of income.

MaineHousing's Response: MaineHousing made the decision to have the Rule defer to the HEAP Handbook for the income eligibility verification period as it wanted the flexibility to be able to adjust the verification period if it found that the selected verification period was causing a burden to Applicants. The requirements for what is included in Household Income still remains in the Rule as does the requirements for categorical eligibility, it is just the verification period that has been moved to the HEAP Handbook. MaineHousing will not include terminated sources of income in the household income calculation and will outline this in the HEAP Handbook.

Comment: Chris Hastedt also commented on the Benefit Determination and expressed concern about prioritizing simply on the basis of age, disability or age of a child. Chris indicated that there are a number of people with low incomes and high energy burdens who are not in one of those categories and therefore do not receive additional points for eligibility for benefits. Chris recommended MaineHousing consider taking into account income and energy burden within the age, disability and age of a child categories to have the points be more directly weighted.

MaineHousing's Response: The LIHEAP Guidance explicitly states LIHEAP benefits target households with low incomes, particularly those that have a high home energy burden and/or have members who are elderly, disabled, and/or a young child. MaineHousing made the decision to follow this guidance and provide priority for those populations. Additionally, the data supports providing priority to those populations. Of the 65,583 households that have applied in PY2024, approximately 86% of the households have a household member who is either elderly, disabled, and/or a young child.

Comment: Chris Hastedt also commented on ECIP and urged MaineHousing to consider establishing separate, clear and distinct standards for benefits in ECIP. Chris indicated the current practice is to give priority in taking ECIP applications, but this is not codified in the Rule. Chris suggested revising the Rule to require an initial screening to see if an applicant meets the definition of Energy Crisis outlined in the Rule and if so, allow the applicant the right to apply within 48 hours, receive a decision within 24 hours and then be provided assistance. Chris indicated the proposed Rule does not account for

a situation where an application is not processed in a timely manner.

MaineHousing's Response: The current practice is to prioritize ECIP applicants. The Subgrantees are directed to schedule HEAP appointments in a way that allows room for Applicants who are in an emergency. Generally, when a household calls a Subgrantee with an emergency, the Subgrantee will schedule them for an appointment the same day or as soon as possible. The Application is taken and processed and a delivery is set up to take place within 18 or 48 hours depending upon the type of emergency. All of the documentation required for the ECIP Application is the same as the HEAP Application. MaineHousing does not have separate applications, however, designating an Application as an ECIP Application forces the Vendors to comply with their contracts and take action immediately. MaineHousing does not believe the standards for ECIP should be different than the standards for HEAP other than the fact that ECIP should be prioritized. MaineHousing believes ECIP Applications are being processed as quickly as feasible under the current standards.

Comment: Chris Hastedt further commented MaineHousing should consider a presumptive eligibility methodology like the one used in SNAP where they determine an application without fully verifying all the elements of that application so that they are able to make a determination of eligibility within 24 hours.

MaineHousing's Response: All of the elements of an Application must be fully verified prior to determining a Household eligible for benefits to ensure MaineHousing is complying with Federal law. The HEAP and ECIP applications require the same information and MaineHousing believes that all of the information is necessary in order to ensure compliance. Creating a pared down version of the Application that would then require follow-up after the issuance of benefits, would create a burden on both the Applicants and the Subgrantees and make it more difficult to complete Applications.

Comment: Chris Hastedt commented with respect to Fair Hearings that MaineHousing should consider revising the Rule to allow individuals to request a fair hearing in instances where the amount of the benefit itself is disputed as opposed to the criteria used to determine the benefit.

MaineHousing's Response: The LIHEAP Statute only requires fair administrative hearings for individuals who were denied assistance or applied and their application was not acted upon with reasonable promptness. MaineHousing's Rule adds additional opportunities for Fair Hearing, one of which is if the Applicant disputes the criteria used to calculate the amount of their Benefit. This is not required under Federal law, but MaineHousing feels it is important as it allows an Applicant that believes their benefit was incorrectly calculated to ask for review to see if an error was made. Changing the language to allow a fair hearing for any dispute of the amount with no justification, would allow fair hearings for any situation where an individual is not happy with the amount of the benefit. With the increase in applications and the decrease in benefits, this would likely result in a larger number of fair hearings which would cause administrative concerns.

Comment: Chris Hastedt provided testimony and written comments suggesting that an individual should be able to request a fair hearing on the basis of who was included and excluded as household members.

MaineHousing's Response: The Rule allows an individual to request a Fair Hearing if they dispute the criteria used to calculate the amount of their Benefit.

Comment: Chris Hastedt asked MaineHousing to define "reasonable promptness" which is one of the allowable criteria for requesting an Informal Review and Fair Hearing. Chris suggested MaineHousing adopt a 30 day standard to meet the definition of "reasonable promptness" and suggested using a similar standard for ECIP.

MaineHousing's Response: Reasonable promptness is defined by the deadline Subgrantees have to certify or deny an Application. The Rule states that within thirty (30) business days of the Date of Application Subgrantees must certify or deny an Application unless a waiver up to forty-five (45) business days is granted by MaineHousing. MaineHousing has added clarifying language to Section 13(A) which reads "(meaning it was not certified or denied within the required timeframe outlined in this Rule or as approved by waiver)".

Comment: Chris Hastedt submitted written comments encouraging MaineHousing to allow applicants to make an oral request by telephone or in-person for an Informal Review.

MaineHousing's Response: If an individual making a request for an Informal Review needs a reasonable accommodation to submit that request by telephone or in-person that individual may make a request for that accommodation.

Comment: Chris Hastedt also submitted written comments stating 60 days for a written decision with an additional 10 days for implementation in the Fair Hearing process was too long and that there should be an expedited hearing process for ECIP as well as a shorter time period for implementation of any decision.

MaineHousing's Response: MaineHousing's Fair Hearings are conducted by trained and impartial hearing officers. There are a limited number of individuals in the State of Maine that do this type of work and currently MaineHousing only has one hearing officer despite numerous attempts to retain additional hearing officers. The hearing officer holds a hearing and considers all of the evidence presented and issues a recommended decision to MaineHousing and the individual that is then available for both parties to comment on. The hearing officer then has a chance to modify the recommended decision based on comments received and issue a final recommended decision. That final recommended decision must then be reviewed by MaineHousing's Director and a final agency decision must be issued within the sixty day timeframe. The sixty days is a quick turnaround given all of the steps that need to occur. Shortening the timeframe would be to the detriment of all parties involved. That being said, MaineHousing does its best to issue decisions as quickly as possible. As to the implementation timeframe, MaineHousing does not believe ten days is too long.

Comment: Chris Hastedt also commented on Errors and Program Abuse asking MaineHousing to consider modifying the Rule to not require collection of overpayments in situations where an agency caused the error or the error was unintentional on the part of the household. Chris suggested modeling a revision after the Unemployment Insurance Program that offers guidance on what an unintentional overpayment is. Chris provided in the alternative that MaineHousing could automatically excuse these types of overpayments for anyone under 100% FPL or a member of a "priority population."

MaineHousing's Response: Section 14, Errors and Program Abuse, allows individuals the chance to correct unintentional errors by working with MaineHousing and the Subgrantees to provide additional documentation and information showing the error was unintentional. If the error was not caused by the individual and was instead caused by the Subgrantee, MaineHousing would not hold the individual responsible for the error. MaineHousing has added clarifying language to Section 14(B) that states "If MaineHousing determines the Errors were at no fault of the Applicant, MaineHousing will not require an Overpayment from the Applicant."

Comment: Chris Hastedt commented on the waiver provision that allows MaineHousing to consider providing a waiver to the thirty (30) business day certification or denial period of an Application. Chris expressed concern that if this was to become a blanket waiver it would undermine the importance of timeliness in processing applications. Chris recommended MaineHousing grant these waivers judiciously and only after the Subgrantee has provided a plan with the reasons for the delay and the corrective action that will be taken in the future to avoid delay.

MaineHousing's Response: Section 15 clearly states MaineHousing will only grant waivers of the Rule and/or HEAP Handbook in very limited circumstances. In order to request a waiver Subgrantees are required to submit a Waiver Request Form that asks for the reason for the request, actions/research the Subgrantee has compiled to justify the exception and identification and attachment of supporting documentation. MaineHousing reviews all of this information in determining whether or not a waiver is appropriate. This process does not lend itself to blanket waivers and is not intended to allow a Subgrantee to circumvent the Rule.

Comment: Chris Hastedt commented that no waivers as to timeliness for ECIP Applications should be allowed.

MaineHousing's Response: In the majority of cases if an individual submits an ECIP Application and provides all the

required documentation, which most do, the individual is provided with a same day appointment and benefits are issued within the required 18 to 48 hour timeframes. MaineHousing does not anticipate any requests for waivers for ECIP applications, but would do its due diligence if one was received to review all the surrounding facts and circumstances.

Comment: Chris Hastedt also commented that the waiver provision allowing MaineHousing to extend the deadline to receive a signed application within twenty (20) business days of a telephone interview is not supported by an underlying provision in the Rule.

MaineHousing's Response: MaineHousing agrees this is not clear in the Rule. A clarification has been added to Section 2(C)(4) and a new section 2(C)(5) has been added to require all Applications to be returned, signed by the Applicant, within twenty (20) business days of the interview with the Subgrantee. This change has also been reflected in Section 15(D).

Comment: Chris Hastedt also provided written comments that the Rule does not support the notion that an application will be denied for missing information within a certain time.

MaineHousing's Response: Section 2(C) provides that a Subgrantee must certify or deny an Application within thirty (30) business days from the Date of Application, so it is implied that if an Applicant does not provide the required documentation within thirty (30) business days from the Date of Application, the Application will be denied.

Comment: Chris Hastedt also provided written comments encouraging MaineHousing to accept electronic signatures and telephonic signatures to expedite telephone applications.

MaineHousing's Response: MaineHousing does acceptable electronic signatures for all Applicants that apply online. Additionally, MaineHousing provides guidance on acceptable signatures in the HEAP Handbook. At this time MaineHousing does not have the capability to accept telephonic signatures.

Comment: Chris Hastedt also provided written comments asking MaineHousing to increase the deadline to receive a signed application from twenty (20) business days to thirty (30) business days.

MaineHousing's Response: Section 15(D) allows the Subgrantee to request a waiver on behalf of an applicant for up to thirty (30) business days if a waiver is justified.

Comment: Chris Hastedt also provided written comments asking MaineHousing to increase the deadline for denials for missing information to twenty-five (25) business days from the date of written notification of the denial rather than allowing a waiver for it.

MaineHousing's Response: MaineHousing believes a waiver for this provision is appropriate rather than a change to the Rule. The Rule allows fifteen (15) business days, which is more than fifteen (15) calendar days and if an Applicant misses the fifteen (15) business day window they can ask the Subgrantee to submit a waiver for good cause.

Comment: Chris Hastedt also recommended that MaineHousing should revise the Rule to allow an applicant to show good cause for an extension of the twenty (20) business day deadline for returning a signed application when an application is completed over the phone.

MaineHousing's Response: Section 15(D) allows the Subgrantee to request a waiver on behalf of an applicant for up to thirty (30) business days if a waiver is justified.

Comment: Chris Hastedt submitted written comments suggesting that instead of switching to “indirect determinable energy cost” MaineHousing add the word “undesigned” in describing payments for energy in the form of rent.

MaineHousing's Response: MaineHousing believes the term has been described appropriately.

Comment: Chris Hastedt submitted written comments suggesting MaineHousing add to the definition of “Person with a Disability” a person receiving SSI or Social Security Disability.

MaineHousing’s Response: MaineHousing has chosen to define “Person with a Disability” in accordance with the Maine Human Rights Act, 5 M.R.S. § 4553-A. Neither HUD nor the Maine Human Rights Act defines disability to include a person receiving SSI or Social Security Disability. A physical or mental disability is not based on receipt of public assistance.

Comment: Chris Hastedt submitted written comments asking MaineHousing to add “boarders” back to the definition section indicating that other programs, such as SNAP, do make a distinction between roomers and boarders and it would provide clarity for HEAP applicants that both qualify for benefits.

MaineHousing’s Response: A clarification has been added to Section 1(RR) stating “A Roomer also includes a boarder (meaning a Roomer who is provided meals)”.

Comment: Chris Hastedt submitted written comments suggesting “date of application” be clarified to explicitly name that it also applies to the date on which an online application is filed.

MaineHousing’s Response: MaineHousing chose to define “date of application” with one simple definition which includes all methods of delivery.

Comment: Chris Hastedt submitted written comments suggesting in the written notice of eligibility and denial sections, the Rule require that a list of household members found eligible and ineligible also be included in both notices.

MaineHousing’s Response: If Applicants have questions regarding eligible and ineligible Household Members they may request information from the Subgrantee. In the future, MaineHousing will review options available with the HEAP software to determine how this information might be able to be provided.

Comment: Chris Hastedt submitted written comments encouraging MaineHousing to consider creating a state-funded HEAP program for immigrants not eligible for federal HEAP.

MaineHousing’s Response: MaineHousing encourages Maine Equal Justice Partners to approach the Legislature for funding for a program that could provide these services.

Comment: Chris Hastedt submitted written comments thanking MaineHousing for the proposed changes that make it easier for people to show proof of their citizenship/legal status. Chris commented that if MaineHousing considers using the SAVE System/Social Security Administrative System in the future to determine eligibility, that MaineHousing only use it in conjunction with other methods as it is often unreliable.

MaineHousing’s Response: MaineHousing appreciates the support and will certainly consider the reliability of any system it may adopt in the future for eligibility determination.

Comment: Chris Hastedt submitted written comments stating SNAP electronic benefit transfer cards are no longer issued by Maine DHHS and MaineHousing should be aware of this change, as while people may still have these cards, going forward this form of identification may no longer exist.

MaineHousing’s Response: MaineHousing will certainly keep this in mind and may consider removing it as an acceptable form of identification in the future if it becomes obsolete.

Comment: Chris Hastedt submitted written comments thanking MaineHousing for the changes to Categorical Income Eligibility but asking MaineHousing to consider other forms of verification in addition to the Notice of Decision from DHHS, such as a screenshot from DHHS’ online benefits system.

MaineHousing’s Response: MaineHousing has added clarifying language to Section 3(C)(2) indicating that a document similar to the DHHS Notice of Decision containing the same information, as determined acceptable by the Subgrantee, may be accepted to establish Categorical Income Eligibility.

Comment: Chris Hastedt submitted written comments concurring with MeCAP’s suggestion that MaineHousing allow administering agencies to start accepting ECIP applications earlier in the Program Year.

MaineHousing’s Response: MaineHousing does not receive its allocation of LIHEAP funding until mid-November, so in order to start the ECIP prior to November 1, MaineHousing would need to obtain funding from another source to run the program until funds from the Federal government were received. Due to the nature of ECIP and the requirement that deliveries happen within 18 to 48 hours, most Vendors are making deliveries in good faith, with the contractual promise that MaineHousing will provide the funding in a reasonable amount of time. If ECIP started prior to the receipt of Federal funding, there is no guaranty MaineHousing could meet its contractual obligation to Vendors to pay within a reasonable amount of time. For those reasons, ECIP must begin no earlier than November 1.

Comment: Chris Hastedt also submitted written comments regarding the HEAP Handbook expressing concern that the Handbook, which is not easily located, affects people’s rights to benefits, and implements, interprets or makes specific the law administered by the agency or describes the procedures or practices of the agency. Chris recommended that any material in the Handbook that affects these things be incorporated into the Rule.

MaineHousing’s Response: The Rule clearly outlines the required eligibility requirements for HEAP. The HEAP Handbook is designed to assist in the procedures for operating the program, and is to be used in conjunction with the Rule, State Plan and Subgrantee Agreement. If an Applicant would like a copy of the HEAP Handbook, they may request it from the Subgrantee or MaineHousing.

Comment: Chris Hastedt also submitted written comments encouraging MaineHousing to publish public-facing data on wait times as measured against established improvement goals.

MaineHousing’s Response: MaineHousing appreciates this feedback, but would not incorporate this type of request into the Rule. This is something that could be considered outside of Rulemaking.

Comment: Megan Hannan, Executive Director of Maine Community Action Partnership provided testimony at the public hearing agreeing with what Christina Link provided for comments and quite a few things that Chris Hastedt recommended. One additional item Megan commented on was ECIP timing. She suggested that administrators who are doing ECIP and HEAP should put into their Plans that they can do ECIP earlier. Megan indicated this would be good for areas of the State that get colder faster.

MaineHousing’s Response: MaineHousing does not receive its allocation of LIHEAP funding until mid-November, so in order to start the ECIP prior to November 1, MaineHousing would need to obtain funding from another source to run the program until funds from the Federal government were received. Due to the nature of ECIP and the requirement that deliveries happen within 18 to 48 hours, most Vendors are making deliveries in good faith, with the contractual promise that MaineHousing will provide the funding in a reasonable amount of time. If ECIP started prior to the receipt of Federal funding, there is no guaranty MaineHousing could meet its contractual obligation to Vendors to pay within a reasonable amount of time. For those reasons, ECIP must begin no earlier than November 1.

Comment: The Office of the Public Advocate, William S. Harwood Public Advocate, Elizabeth Deprey Consumer Advocate, and Kristina Winther Senior Counsel submitted written comments stating while campers/RVs may have originally been constructed as temporary living quarters, if a camper or RV has been made a permanent residence with heating and electrical service, the residents of these dwellings should qualify for HEAP. The Office of the Public Advocate commented this would be consistent with other states such as Vermont and New Hampshire and the Low-Income Assistance Program (“LIAP”) which states to be eligible for the program a customer must be a residential customer, who is

receiving electrical service on a continuing year-round basis and qualifies for LIHEAP or participates in a DHHS means-tested program and is at or below 150% of the Federal Poverty Line. The Office of the Public Advocate commented that individuals living in campers/RVs are likely among those who need HEAP the most and qualifying for HEAP opens the doors to many other support programs such as LIAP, the Arrearage Management Program, ECIP and CHIP.

MaineHousing’s Response: The laws in New Hampshire and Vermont define the term “dwelling unit” differently from Maine law. In setting its definition of dwelling unit for the purposes of the Rule, MaineHousing looked to federal law, Maine law and other program guidance to establish a definition that was consistent with already existing definitions and MaineHousing’s other programs. The definition of dwelling unit has consistently excluded campers, boats, yurts and other structures designed and constructed to provide temporary living quarters for over twenty-four years. Similarly, MaineHousing has operated a number of other programs through the same lens, not allowing campers to be deemed eligible dwelling units. A change to LIHEAP would be inconsistent with other MaineHousing programs. It would also allow campers and other temporary living quarters to qualify for HEAP Weatherization, the Central Heating Improvement Program and the Heat Pump Program. MaineHousing does not believe it is feasible to provide these services to campers and other temporary living quarters based on the nature and construction, which is designed to provide temporary living quarters for recreational, camping, travel or other use.

Additionally, creating regulatory standards to determine some campers eligible as dwelling units, but exclude all other types of campers and temporary living quarters, is not feasible and would be burdensome to verify and enforce to ensure cars, boats, yurts and other temporary living quarters could not meet those standards. The latitude provided to municipalities throughout the State to determine when a certificate of occupancy may be issued, would make it near impossible to create a standard that is fair across the board as some municipalities may refuse to recognize a camper as a dwelling unit.

LIAP is run by the Maine Public Utilities Commission. It is not a MaineHousing program. Eligibility for LIAP is based on eligibility for LIHEAP and/or participation in a DHHS means tested programs with a household income at or less than 150% of the Federal Poverty Guidelines. A camper would not be eligible for LIHEAP, which means eligibility would have to be verified by participation in a DHHS means tested programs, which looks at income versus the status of a dwelling unit. The LIAP application for customers who participate in a DHHS program asks nothing about the type of dwelling unit and instead asks for the address, name of the utility provider and the utility account number. So as long as the household has a utility account and is paying for and receiving electricity, it qualifies. There is no dwelling unit eligibility, which is substantially different from LIHEAP.

FISCAL IMPACT NOTE: The replacement HEAP Rule will not impose any cost on municipalities or counties for implementation or compliance.

EFFECTIVE DATE: JULY 3, 2024