



United States
Department of
Agriculture

Food and
Nutrition
Service

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SUBJECT: Supplemental Nutrition Assistance Program – Section 4006 of the
Agricultural Act of 2014 – Questions and Answers Part II

TO: All Regional Directors
Supplemental Nutrition Assistance Program

The attached questions and answers provide additional policy clarifications responding to State agency concerns regarding the Food and Nutrition Service's (FNS) March 5, 2014, Implementing Memorandum for Section 4006, "Standard Utility Allowances Based on the Receipt of Energy Assistance," of The Agricultural Act of 2014 (P.L. 113-79). These questions and answers serve as formal guidance for use by FNS Regional Offices and State agencies as they implement the provisions of Section 4006.

If further questions related to the implementation of these provisions arise, please contact Casey McConnell at casey.mcconnell@fns.usda.gov.

A handwritten signature in blue ink that reads "Lizbeth Silberman". The signature is fluid and cursive, with a long horizontal flourish at the end.

Lizbeth Silberman
Director
Program Development Division

Attachment

Section 4006 of the Agricultural Act of 2014 - Supplemental Nutrition Assistance Program LIHEAP Implementation Questions and Answers Part II

- 1. Must the Low Income Home Energy Assistance Program (LIHEAP) or other similar energy assistance payment be received at the household's current address to confer eligibility for the SNAP heating or cooling standard utility allowance (HCSUA)? For example, if a household receives a LIHEAP payment, then moves to a new place of residence, would they continue to be eligible for the HCSUA at their new address?**

Section 5(e)(6)(C)(iv) of the Food and Nutrition Act of 2008 (the Act), as amended by Section 4006 of the Agricultural Act of 2014, requires that State agencies that have elected to use the HCSUA must make the HCSUA available to SNAP households that have received a LIHEAP or other similar energy assistance program payment, provided the payment was received in the current or preceding 12 months and exceeds \$20 annually. The Act does not stipulate that the LIHEAP or other similar energy assistance payment must have been received at the household's current address or place of residence. State agencies that use the HCSUA must make the HCSUA available to SNAP households that have received a qualifying (over \$20 in the current or preceding 12 months) LIHEAP or other similar energy assistance payment, regardless of any change in the household's residence or address.

- 2. How should State agencies handle LIHEAP payments that have been received in another state? For example, if a household receives a qualifying LIHEAP payment in one State, then moves to another State and applies for SNAP, would the household be eligible for the HCSUA through the LIHEAP payment?**

The Act requires that for States that have elected to use a HCSUA, the HCSUA be made available to households that have received a qualifying LIHEAP or other similar energy assistance payment, provided that the payment was received in the current or preceding 12 months and exceeds \$20 annually. The Act does not stipulate that the LIHEAP or other similar energy assistance payment must have been received in the household's current State of residence. Therefore, if a household receives a qualifying LIHEAP payment in State A, then moves to State B and applies for SNAP in State B, the household would be eligible for State B's HCSUA through the LIHEAP payment that the household received in State A, provided that State B has elected to use HCSUAs and that the payment exceeds \$20 and has been received in the current or immediately preceding 12 months.

- 3. How should State agencies handle a situation in which a household that received a qualifying LIHEAP or other similar energy assistance payment splits into two separate SNAP households? Should the HCSUA be made**

available to both SNAP households based upon the same qualifying LIHEAP payment, or should States choose a single household?

If a household that has received a qualifying LIHEAP payment subsequently splits into two SNAP households, State agencies must determine which one household is eligible for the HCSUA using the qualifying LIHEAP payment. In this scenario, States have discretion regarding which SNAP household would receive the HCSUA based on the qualifying LIHEAP payment. As with other discretionary policy decisions, a State's chosen policy must be applied in a consistent and equitable way.

4. What constitutes an “other similar energy assistance program” as referenced in Section 5(e)(6)(C)(iv) of the Act?

The Act does not explicitly identify what constitutes an “other similar energy assistance program.” Therefore, FNS will evaluate State requests to confer eligibility for the HCSUA based upon an energy assistance program other than LIHEAP on a case-by-case basis. FNS may address the meaning of the Act's reference to “other similar energy assistance program” in future rulemaking.

5. Can States accept self-declaration of LIHEAP payments or do they have to be verified?

In States with mandatory standard utility allowances (SUA), utility costs do not require verification for SNAP purposes, unless questionable. Similarly, receipt of more than \$20 in LIHEAP or similar energy assistance payment does not require verification for SNAP purposes, unless questionable. In States that do not mandate use of the SUA, verification is mandatory if the household wishes to claim utility costs in excess of the State agency's utility standard and the expense would actually result in a deduction. State agencies should consider program access, integrity, and the potential for Quality Control errors in determining their verification procedures, as responsibility for determining receipt of a greater than \$20 LIHEAP payment or similar energy assistance payment rests with State agencies.

6. Section 4006 requires that the household receive an annual LIHEAP of greater than \$20 in the “current” month or the immediately preceding 12 months in order to confer eligibility for the HCSUA. Does the “current month” refer strictly to a calendar month, or could consist of a period 30 or 31 consecutive days?

The “current month” refers strictly to the calendar month, meaning from the first to the final day of a given month.

7. Will the October mass changes or other actions taken on cases prior to the next recertification trigger the five-month window to apply the new LIHEAP provision to ongoing SNAP households?

As provided by the April 7, 2014, LIHEAP Implementation Questions and Answers, State agencies may only apply the new LIHEAP provision to ongoing SNAP households (those certified prior to March 10, 2014) on the date of the household's next recertification or within the five-month window thereafter. States are expected to collect utility information for ongoing households at their next recertification. States may also use the periodic report or other household contact to collect utility information.

- 8. If a State chooses to use all or part of the allowable five-month delay for ongoing households, what are the noticing requirements for applying the change during those households' certification periods? May States simply issue a notice of mass change?**

If the application of the new LIHEAP provisions to ongoing households during their certification periods results in a decrease in the households benefits, States must issue the household a notice of adverse action following 7 CFR 273.13. States cannot issue a notice of mass change in this instance, as applying the provision to ongoing households does not constitute a mass change as described by 7 CFR 273.12(e).