

Minnesota Attorney General: Administrative Rules Proceedings

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STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Rolf Middleton, Commissioner
Department of Economic Security

DATE: 2/13/81

ATTN: R. Jane Brown
Energy Assistance Program Director

FROM : Jerry S. Anderson
Special Assistant Attorney General

PHONE: 6-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of State Department of Economic Security Governing Emergency Residential Heating Grants.

The above-captioned temporary rules have been approved by this office.

While the statute does not require it, this office recommends that an Order of Adoption and a copy of the Rules as Adopted be filed with the Secretary of State. It is the department's responsibility to comply with the Notice provisions of Minn. Stat. § 15.0412, Subd. 5.

If you have any questions, do not hesitate to contact me.

JSA/gy

Enc.

cc: Susan Robertson, LCRAR

STATE OF MINNESOTA
DEPARTMENT OF ECONOMIC SECURITY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF STATE DEPARTMENT OF ECONOMIC SECURITY GOVERNING EMERGENCY RESIDENTIAL HEATING GRANTS

ORDER ADOPTING TEMPORARY RULES

It is hereby ordered that the attached rules governing emergency residential heating grants for low income households are adopted this tenth day of February, 1981 pursuant to the authority vested in me by Laws 1980, Chapter 579, section 22, subdivision 2.

STATE OF MINNESOTA

Rolf Middleton
Commissioner
Department of Economic Security

Department of Economic Security

Division of Training and Community Services

Temporary Rules Governing Emergency Residential Heating Grants

Request for Public Comment

Notice is hereby given that the Department of Economic Security has submitted the following temporary rules to the Attorney General for approval. These rules shall take effect upon approval by the Attorney General. The purpose of these rules is to govern the administration of grants for emergency residential heating assistance to low income households pursuant to Laws 1980, ch. 579. All interested persons may comment on these rules to:

R. Jane Brown

Energy Assistance Programs

Minnesota Department of Economic Security

690 American Center Building

150 East Kellogg Boulevard

St. Paul, Minnesota 55101

Written comments submitted for consideration must be received by March 20, 1981. The temporary rules may be amended on the basis of comments received.

Rolf Middleton

Commissioner

Department of Economic Security

8 MCAR ss 4.4012-Emergency residential heating grants for low income households.

A. Policy.

1. The purpose of these rules is to govern the administration of grants to low income households pursuant to Laws 1980, ch. 579, to supplement the federal Low Income Energy Assistance Program, 42 USC ss 8601-8612.

2. Unless otherwise stated in these rules, this program shall be administered in the same manner and form as the federal Low Income Energy Assistance Program.

3. This program does not entitle any household to a certain amount and/or form of assistance.

B. Definitions. The following terms used in this rule shall have the meaning given them.

1. "Building Operator" means an owner or owner's representative of a residential building who provides housing to low income households.
2. "Commissioner" means the Commissioner of the Minnesota Department of Economic Security or his/her designated representative.
3. "Eligible household" means any household that a grantee has determined to be eligible for assistance. Eligibility shall be based on annualized household income during not more than 12 months nor less than the 90-day period preceding the request for assistance.

4. "Grant" means the approved written agreement entered into between the grantee and the State.

5. "Grantee" means the local administering agency.

6. "Heating degree days" means the result of the following calculation: for each day in a year's time on which the day's mean temperature in a given locality is less than 65 degrees F., the difference between each day's mean temperature and 65 degrees F. is totaled for the year. The result is the "heating degree days" for that locality.

7. "Household" means any individual or group of individuals who are living together as one economic unit and for whom residential energy is customarily purchased in common, or who make undesignated payments for energy in the form of rent.

8. "Landlord Agreement" means a signed written agreement between the grantee and the landlord of a SEAP applicant household assuring that rent will not be raised as a direct result of the applicant's participation in SEAP and identifying that portion of the applicants rent applied to energy costs.

9. "Law" means Laws of 1980, ch. 579.

10. "Local administering agency" means a county human service office, community action agency, or a public or private non-profit agency which has been granted funds in accordance with these rules.

11. "Low Income Energy Assistance Program", or "LIEAP", is the federally funded energy assistance program, 42 USC ss 8601-8612.

12. "Medicare" means that program established by the 1965 amendments to the Social Security Act to provide hospital care and medical insurance to persons age 65 and over.

13. "State" means the State of Minnesota acting through the Department of Economic Security (DES).

14. "State Energy Assistance Program" (SEAP) means the Emergency Residential Heating Assistance Program.

15. "Vendor" means a supplier of energy.

16. "Vendor Agreement" means that document signed by an energy supplier and a grantee that details the terms and conditions under which the energy supplier agrees to participate in LIEAP.

17. "Vulnerable Household", means a household that is not fully protected against increases in home energy costs under any government program.

C. Local administering agencies.

1. In order to be awarded a grant a local administering agency must be a deliverer of LIEAP.

2. Allocations to local administering agencies shall be made on the basis of the number of income eligible households in the area served by the agency adjusted by the cost of fuel and degree days. Unexpended funds in one grantee area may be reallocated to another area of the state.

3. All grants shall be in writing stating the obligations of the grantee and the amount of the grant.

D. Serving Clients.

1. Grantees shall work with other local human service programs to locate and notify potential program participants. They shall also work with other human service providers to establish decentralized intake and certification systems.

2. Grantees shall publicize information regarding the availability of assistance under this program.

3. Any resident of Minnesota except those assisted by LIEAP may apply for this program.

4. Only applications for assistance taken after December 1, 1980 shall be used to determine eligibility under this program.

5. No application for assistance under this program shall be taken after June 15, 1981.

6. If an agency anticipates an inability to fully assist all eligible applicants because of a lack of funds, the agency shall develop a priority plan which must be submitted to the State for approval. Priority must be given to households with the lowest income and highest energy burden.

7. Grantees shall have, and provide to all applicants, procedures for review of partial or complete denial of assistance under this program.

E. Forms of assistance.

Forms of assistance on behalf of eligible households shall be the same as those used to provide assistance to eligible households for LIEAP.

F. Eligibility.

1. Assistance shall be made on behalf of eligible households whose annualized household income does not exceed the following limits:

Size of household	Not more than
1	$6,367
2	8,417
3	10,466
4	12,516
5	14,566
6	16,615

(For each additional household member add $2,050).

2. In determining household income, a household may deduct documented medical expenses that exceed three percent of the household income and that are not reimbursed by insurance or other sources. Payments by a member of a household on behalf of a household member to a nursing home for basic residential care are considered medical expenses. Insurance premiums, with the exception of Medicare payments automatically deducted from social security checks, are not allowable medical expenses.

3. Grantees shall require proof of income from applicants for heating assistance. The period for determining eligibility shall be not more than 12 months nor less than the 90-day period preceding the request for assistance. Grantees are required to verify all income.

4. Payments under this program shall not be considered as income or resources under any other public or publicly assisted income tested program.

G. Limitation on payments.

1. Assistance amounts shall be based on household income, degree days, and primary energy costs. The maximum amount of assistance to eligible households shall in no case exceed heating costs incurred between October 15, 1980, and April 15, 1981, or the assistance amount indicated on the Eligibility Table, whichever is less. If federal money is not available to assist LIEAP eligibile applicants, SEAP funds are available to serve those applicants that meet the SEAP elibibilty guidelines up to the level of assistance computed under LIEAP.

2. Assistance to households shall be based on the household's primary energy source.

3. Households that receive assistance from federal LIEAP are not eligible to receive assistance under this program. Households denied eligibility for LIEAP because of the lack of federal funds may receive assistance from SEAP. When additional LIEAP funds become available they shall be used to reimburse these SEAP assistance payments.

4. Vulnerable households may be eligible for assistance under this program. Assistance payments shall not be made to households that are fully protected, by any government programs, against increased costs of home energy costs.

5. Money paid to vendors for the purpose of establishing lines of credit for eligible households that is unspent as of May 30, 1981 shall be returned to the grantee.

6. Assistance made available under this program must first be directed to the payment of past due energy bills.

7. Assistance provided on behalf of eligible households to secondary vendors shall be limited to the amounts due vendors by eligible households prior to determination of eligibility.

8. Direct cash assistance to eligible households may be provided as reimbursement for actual primary heating expenses paid prior to receipt of assistance and after October 15, 1980.

9. Households that supply their own wood for primary heat may recieve direct cash assistance on a reimbursement basis for the fair market value of wood used between October 15,1980, and April 15, 1981, or the amount indicated on the eligibility table, whichever is less.

10. Households that rent and pay energy costs as an undesignated portion of their rent may receive assistance. When a landlord agreement can be secured the amount of assistance shall be based on the portion of rent considered payment for energy costs but must not exceed 25 percent of actual rent paid over a six month period. The landlord must agree, in writing, not to raise the rent as a direct result of the household's receiving energy assistance. When a landlord agreement cannot be secured the portion of rent designated for heat may be determined by local precedent but must also be limited to 25 percent of actual rent paid over a six-month period and a direct payment may be made to the household. Assistance to households that rent shall not exceed the assistance amount as computed on the Eligibility Table.

H. Coordination with vendors.

Vendor agreements developed and executed for LIEAP shall be considered valid agreements for this program. Any new vendor secured for this program is required to enter into a vendor agreement.

I. Termination of the program.

This program shall terminate on June 30, 1981. Obligations for assistance under this program may not be made after that date. Unobligated funds must be returned to the State by July 31,1981.

J. Program costs.

1. Grantees shall be provided an allocation for administrative costs in relation to available administrative dollars and their total allocation for SEAP. If the grantee incurs expenditures in excess of its total allocation, the amount of the over-expenditure must be absorbed by the grantee. Costs incurred from December 1, 1980 to program end in the administration of this program are allowable costs.
2. Two percent of the State's appropriation for fiscal year 1981 and the unused portion allocated for fiscal year 1980 for administration by the State may be used by the State for administrative costs including audit.

K. Reporting.

1. Grantees shall report monthly to the State from the date of their grant through June 30, 1981. A final report shall be due July 31, 1981. Data to be included in the reports shall be the same as that required under LIEAP. A subgrantee invoice, reporting accrued expenditures, shall be required from grantees at least once per month to receive funds under this program.

L. Monitoring and Audit.

1. The Department of Economic Security shall have the right to monitor the delivery of this program at the local level.

2. Charges reported to the State related to poor administration, faulty or inadequate eligibility certification, duplication and/or fraud shall be investigated immediately by the State. Failure to correct problems may result in termination of the grant.
3. An accounting firm shall be contracted by the State to conduct audits of grantees. The legislative auditor shall approve the selection of the auditors and the scope of the audit.
4. Grantees shall cooperate fully with the monitoring and auditing process.

M. Miscellaneous.

1. Assistance under this program shall not be available to assist households for minor repairs or for consumer goods.
2. Building operators are not eligible to apply for funds under this program.
3. Assistance under this program is not available to pay cooling costs.

N. Severability.

The provisions of this rule shall be severable and if any phrase, clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and the applicability thereof to any person or circumstances shall not be affected thereby.

ELIGIBILITY TABLE

EMERGENCY RESIDENTIAL HEATING GRANTS

Household Size	Non-SMSA's			St. Cloud-Rochester Duluth-Moorhead SMSA			St. Paul Minneapolis-SMSA		
1	$6,367	$5,685	$4,738	$6,367	$5,685	$4,738	$6,367	$5,685	$4,738
2	8,417	7,515	7,220	8,417	7,515	7,430	8,417	7,550	*
3	10,466	9,910	*	10,466	10,210	*	10,466	10,360	*
4	12,516	12,240	*	*12,516	*	*	*12,516	*	*
5	14,566	14,440	*	*14,566	*	*	*14,566	*	*
6	*16,615 **	*	*	*16,615 **	*	*	*16,615 **	*	*

Cost Per Million Delivered BTU								
NORTH								
$ 0-4	50	50		50	50			
4-6	60	160		60	160			
6-8	150	275		150	275			
8-10	200	355		200	355			
10 & over	250	430		250	430			
CENTRAL								
$ 0-4	50	50		50	50		50	50
4-6	50	95		50	95		50	95
6-8	140	240		140	240		140	240
8-10	175	310		175	310		175	310
10 & over	215	380		215	380		215	380
SOUTH								
$ 0-4	50	50		50	50		50	50
4-6	50	50		50	50		50	50
6-8	100	200		100	200		100	200
8-10	150	270		150	270		150	270
10 & over	190	330		190	330		190	330

* Eligible for federal LIEAP. Households with incomes less than the amounts listed and unserved by LIEAP because of a lack of federal funds may be eligible to receive SEAP assistance up to the levels of assistance computed under LIEAP. SEAP funds shall be applied to primary heating costs only except for amounts due secondary vendors prior to the date of determination of eligibilty.

** For each additional household member add $2,050.

COST PER MILLION BTU CONVERSION TABLE

Cost Per Million Delivered BTU	LP $/gal	Oil $/gal	NG $/CCF	Elec $/KWH	Coal $/ton	Wood Hard $/cord	Wood Soft $/cord	Municipal Steam Heat $/1000 lbs
$ 4	0.24	0.33	0.26	0.014	50.80	33.6	20.00	4.60
6	0.36	0.50	0.39	0.020	76.40	50.4	30.00	6.90
8	0.48	0.66	0.52	0.027	101.90	67.2	40.00	9.20
10	0.60	0.83	0.65	0.034	127.40	84.0	50.00	11.50

APPROVED AS TO FORM AND LEGALITY

2-11 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY Jerry Anderson

SPECIAL ASSISTANT ATTORNEY GENERAL

[redacted]-00006-01

STATE OF MINNESOTA

DEPARTMENT of Economic Security

Office Memorandum

TO : Jerry Anderson
Special Assistant
Attorney General

DATE: 2.10.81

FROM : R. Jane Brown
Energy Assistance Program Director

PHONE: 7-2591

SUBJECT: Temporary Rule Governing Emergency Residential Heating Grants

Attached is a copy of the Temporary Rule Governing the Emergency Residential Heating Grants known as SEAP and the Order for Adoption signed by Rolf Middleton, Commissioner of the Department of Economic Security. Pursuant to Laws 1980, Chapter 579, Section 22, Subdivision, the Rule will take effect upon the approval of the Attorney General.

Please call if you have any questions.

RECEIVED
FEB 10 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File No. 673

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2/10
DATE FOR REVIEW _____
DATE DUE 2/18

Adopted w/a hearing _____
Adopted w/o a hearing _____
Temporary rule X

Approved 2/11 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____

✓ Rule as Adopted

___ Rule as Proposed

✓ Order Adopting

___ Notice of Intent to Solicit Outside Opinion

___ Order for rulemaking
_____ Date of Hearing

___ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
_____ Sufficiency

___ Affidavit of Mailing Notice or rulemaking
_____ At least 30 days prior to hearing/adoption

___ Mailing list Certificate

___ Publication in State Register
_____ At least 30/20 days prior to hearing/adoption

___ Hearing Examiner's Report

___ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

___ Agency's Findings of Fact

___ LCRAR Report or agency Affidavit

___ Certificate of Board's Resolution Adopting Rules

___ Order Approving Incorporation by Reference

___ Statement of Need and Reasonableness

___ Petition for Adoption of a Rule

___ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

___ Certificate of Compliance w/Rulemaking Procedures

___ Affidavit of Mailing Notice of Submission to Attorney General

___ Notice of Submission to the Attorney General