

## DEPARTMENT OF HUMAN SERVICES

### Income Maintenance (Volume 3)

#### LOW-INCOME ENERGY ASSISTANCE PROGRAMS (LEAP)

##### 9 CCR 2503-7

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 3.750 LOW-INCOME ENERGY ASSISTANCE PROGRAMS

##### 3.750.1 AUTHORITY

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

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

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

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

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

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

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

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

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

#### 3.751 GENERAL PROVISIONS

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

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

“Appellant”: an applicant or recipient who has requested a state level fair hearing pursuant to section 3.751.43 of these rules.

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

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

“Collateral Contact” means a verbal or written confirmation of a household’s circumstances by a person outside the household who has first-hand knowledge of the information. The name/title of the collateral contact, as well as the information provided, must be documented in the report of contact (ROC).

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

- A. The applicant has provided an adequate response to all application questions which are necessary to determine eligibility and payment level;
- B. The applicant has provided all required verification. A Social Security Number (SSN) for each household member or proof of application for a SSN must be provided. A SSN is required to determine eligibility. If no SSN is provided for a household member, that member will not be included in the household, but the member’s income will be counted;
- C. The application is signed;
- D. The applicant has provided proof of lawful presence in the United States (see Section 3.753).

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

“Discrepancy”: For the purposes of these rules, discrepancy means a lack of similarity between the application and a corresponding data field in the LEAP system. All discrepancies require a record of contact note to be entered into the LEAP system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Prudent Person Principle”: means that, based on experience and knowledge of the program, the county department/contractor exercises a degree of discretion, care, judiciousness, and circumspection, as would a reasonable person, in a given case.

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

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

A. Colorado Works;

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

“Reapplication” means a household who has been denied for the current program year and is reapplying for a LEAP benefit. The application is to be treated as a new application whose point in time is reset to the date of the new application.

“Recipient”: a leap applicant who has received a leap benefit.

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

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

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

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

“Tiny Home”: A residential structure up to 500 square feet in size.

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

**3.751.2 HOUSEHOLDS [Eff. 12/1/14]**

- A. Any individual considered as part of an approved household cannot subsequently be considered as part of another household during the same eligibility period.
- B. Each person living at a dwelling must be counted as either a member of the applicant’s household or a member of a separate household.
- C. The maximum number of household members shall be fifteen (15). The maximum number of separate households shall be nine (9).
- D. The following cannot be classified as separate households:
  - 1. Husband and wife living together;
  - 2. Children under eighteen (18) years of age and living in the same dwelling as the parent or guardian, unless emancipated;
  - 3. Individuals that enter into civil unions.

- E. A parent with his or her children may be listed as a separate household when residing in the same dwelling with his or her ex-spouse in cases of legal separation or divorce.

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

A married couple is considered to be permanently separated when:

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

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

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

**3.751.3 NON DISCRIMINATION POLICIES/RIGHT AND OPPORTUNITY TO APPLY**

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

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

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

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

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

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

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

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

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

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

**3.751.4 NOTICE AND HEARINGS**

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

Each applicant for or recipient of heating fuel assistance or crisis intervention must receive notice of any agency action affecting his/her eligibility for or receipt of benefits or service.

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

Notices of denial shall advise the applicant of the reason for the denial; the regulation citation relied on by the county department, and appeal rights and procedures. For advance payments of the Heating Fuel Assistance Program, notices of denial shall advise the applicants of their right to a forthwith hearing. See 3.756.15 notification of approval or denial.

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

An applicant or recipient may request a state level fair hearing for:

- A. An application for assistance which has not been acted upon within the maximum time period for the category of assistance;
- B. An application for assistance which has been denied;
- C. An application for assistance which has been partially denied.

An applicant or recipient who requests a state hearing has the right to:

- A. A state level fair hearing before an administrative law judge, if the issue is appealable, and if the written request for a state level fair hearing is mailed or delivered to the office of administrative courts no later than ninety (90) calendar days from the date the notice of action was mailed by the county or contractor to the applicant or recipient; and
- B. Judicial review of the final agency decision in the appropriate state district court, after exhausting the administrative appeal rights granted under these rules.

Any clear expression, orally or in writing, by the applicant or someone legally authorized to act for him or her, that he or she wants an opportunity to have a specific action of a county department or contractor reviewed by the state department is considered an appeal and a request for a hearing. The county department or contractor shall, when asked, aid the applicant in preparation of a request for a hearing. If the request for a hearing is made orally, the county department or contractor shall immediately prepare a written request for the applicant's signature or have the applicant prepare such a request, specifying the action on which the request is based and the reason for appealing that action.

The applicant or recipient is entitled to be represented at the state level fair hearing by an authorized representative, such as legal counsel, a relative, a friend, or other spokesperson, or they may represent themselves.

With the exception of the names of confidential informants, privileged communications between the county or contractor and its attorney, and the nature and status of pending criminal prosecutions, and any other information this confidential or privileged, the applicant or recipient is entitled to examine the completed case file and any other documents, records, or pertinent material that will be used by the county or contractor at the state level fair hearing at a reasonable time before the date of the hearing, but no later than 30 days prior to the date set for the hearing.

The county shall forward copies of its policies and any subsequent amendments, including effective dates, to the state department and to the Colorado department of human services office of appeals (hereinafter "office of appeals"). Applicants appealing a county or contractor action shall be provided reasonable opportunity to examine the county or contractor's policies.

County departments/contractor shall notify the state leap office in writing within seven (7) days upon receipt of a request for a state level fair hearing by an applicant on heating fuel assistance program.

**3.751.44 Authority and Duties of State Administrative Law Judge**

One or more persons from the state department of general support services/personnel, office of administrative courts, are appointed to serve as administrative law judges for the state department of human services.

The state administrative law judge shall, prior to the hearing, review the reasons for the decision under appeal and be prepared to interpret applicable departmental rules and/or official written county policies governing the low-income energy assistance program and pertaining to the issue under appeal.

If either party chooses not to be represented by legal counsel, the administrative law judge shall assist in bringing forth all relevant evidence and issues relating to the appeal.

**3.751.45 State Responsibilities**

Every appeal requesting a state level fair hearing will be assigned a case number when such appeal is received by the office of administrative courts. A hearing date will be set at least ten (10) days in advance of the fair hearing and a letter by first class or certified mail will be sent to the appellant and the county department or contractor notifying them of the date, time, and place of the hearing. The appellant will be notified in writing that if good cause exists consideration will be given to changing the date; time or location provided they request the change to the office of administrative courts prior to the scheduled fair hearing. An information sheet shall be enclosed in the notification letter to explain the hearing procedures to the appellant. The appellant will be informed that they or their representative may examine all materials to be used at the hearing, before and during the hearing. The appellant also will be informed that failure to appear at the hearing as scheduled, without having shown good cause for failure to appear, shall constitute abandonment of the appeal and cause a dismissal thereof. Information which the appellant or their representative does not have an opportunity to see shall not be made a part of the hearing record or used in a decision on an appeal. No material made available for review by the administrative law judge may be withheld from review by the appellant or their representative.

In assistance payment appeals, the administrative law judge has 20 days from the hearing date to arrive at an initial decision. The initial decision shall not be implemented until after the office of appeals completes its review and enters a final agency decision. All final agency decisions on these appeals shall be made within 90 days from the date of the request for hearing is received.

In all other appeals, the administrative law judge shall arrive at an initial decision within a reasonable timeframe. The administrative law judges' initial decision shall not be implemented until after the office of appeals completes its review and enters a final agency decision. All final agency decisions on these appeals shall also be made within a reasonable amount of time.

Once the initial decision has been made, it shall immediately be delivered to the office of appeals for determination of the final agency decision.

**3.751.46 County and Contractor Responsibilities**

Upon receipt of the request for appeal by the county or contractor, the county or contractor shall mail a letter to the appellant, with a copy to the office of administrative courts and the state leap office, no later than five (5) days prior to the hearing, giving the following information:

- A. The reasons for the decision of the county or contractor and a specific explanation of each factor involved in the reaching the decision, such as, but not limited to, the amount of excess income, residence factors, and household factors;
- B. Citation(s) to the specific state rules and county or contractor policies governing the decision; and

- C. Notice that the county or contractor will assist the appellant in organizing the facts supporting their claim if the appellant so desires, and that the appellant has the opportunity to examine the state rules, county or contractor policies, and other materials to be used at the hearing concerning the basis of the county or contractor decision.

If the county or contractor fails to mail the letter with all required information to the appellant no later than five days prior to the hearing, the appellant may be granted a postponement of the hearing to allow the appellant to prepare for the hearing.

If the appellant will be represented at the hearing by legal counsel or another designated representative, the county or contractor will not discuss with the appellant the merits of the appeal or the question of whether to proceed with the appeal, unless any such conversation takes place in the presence of or with the permission of the legal counsel or designated representative.

If necessary, the county or contractor will arrange to have present at the hearing a qualified interpreter who will be sworn to translate correctly.

The fact that an appellant and the county or contractor have been notified that a hearing will be held does not prevent the county or contractor from reviewing the case or considering any new factors which might change the status of the case, and taking action to reverse its decision or otherwise settle the issue. Any change which results in a voiding of the basis for the appeal will be immediately reported by the appellant to the office of administrative courts by telephone and in writing.

Upon receipt of notice of a state hearing on an appeal, the county department/contractor shall arrange for a suitable hearing room appropriate to accommodate the number of persons who are expected to be in attendance, including witnesses, taking into consideration such factors as privacy; absence of distracting noise; need for tables, chairs, electrical outlets, adequate lighting, and ventilation; and telephone conferencing abilities.

### **3.751.47 Conduct and Procedures of State Level Fair Hearings**

#### **3.751.471 Conduct of State Level Fair Hearings**

The administrative law judge shall conduct state level fair hearings in accordance with the Colorado administrative procedure act (C.R.S. §§ 24-4-101 through 24-4-108).

The county or contractor shall have the burden of proof, by a preponderance of the evidence, to establish the basis of the decision being appealed. Every party to the proceeding shall have the right to present their case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the administrative law judge may receive all or part of the evidence in written form or by oral stipulations.

Hearings may be conducted by telephone conference as an alternative to face-to-face hearings, unless any party requests a face-to-face hearing. All applicable provisions of the face-to-face hearings procedures will apply.

#### **3.751.472 Procedures of State Hearings**

State level fair hearings are confidential; however, any person or persons whom the appellant wishes to appear for them may be present, and, if requested by the appellant and in the record, such hearing may be made open to the public.



The purpose of the state level fair hearing is to determine the pertinent facts in order to arrive at a fair and equitable decision in accordance with the rules of the state department. In arriving at a decision, only the evidence and testimony introduced at the hearing will be considered, except that in circumstances when it is shown at the hearing that evidence could not, for good cause, be obtained in time for the hearing, the administrative law judge may permit the introduction of medical or other evidence after the hearing, provided that the opposing party is also furnished a copy and is afforded the opportunity to controvert or otherwise respond to such evidence.

Although the hearing may be conducted on an informal basis and efforts may be made to place all parties at ease, the evidence must be presented in an orderly manner in order to create an adequate record.

A complete and exact record of the proceedings shall be made by electronic or other means. When required, the office of administrative courts shall cause the proceedings to be transcribed.

When the administrative law judge dismisses an appeal for reasons other than failure to appear, the decision of the administrative law judge shall be an initial decision, which shall not be implemented until after the office of appeals completes its review and enters a final agency decision.

If the appellant fails to appear at a duly scheduled hearing, after having been given proper notice, without having given timely advance notice to the administrative law judge of acceptable good cause for inability to appear at the hearing at the time, date, and place specified in the notice of hearing, then the appeal shall be considered abandoned and an order of dismissal shall be entered by the administrative law judge and served upon the parties by the office of administrative courts. The dismissal order shall not be implemented until after the office of appeals completes its review and enters a final agency decision the appellant, however, shall be afforded a ten-day period from the date of the order of dismissal was mailed, to explain in a letter to the administrative law judge the reason for their failure to appear. If the administrative law judge finds that there was good cause for the appellant not appearing, the administrative law judge shall vacate the order dismissing the appeal and schedule another hearing date.

If the appellant does not submit a letter showing good cause within the ten-day period, the order of dismissal shall be filed with the office of appeals by the office of administrative courts. The office of appeals will issue a final agency decision upholding the dismissal of the appeal, which shall be served upon the parties. The county or contractor shall immediately carry out the necessary actions to provide assistance or services in the correct amount, terminate assistance or services, recover assistance incorrectly paid, and/or take other appropriate actions in accordance with the leap program rules.

If the appellant submits a letter alleging good cause and the administrative law judge finds that the stated facts do not constitute good cause, the administrative law judge shall enter an initial decision confirming the dismissal. The appellant may file exceptions to the initial decision for review by the office of appeals.

### **3.751.48 Decision, Notification, and Protections of The Appellant**

#### **3.751.481 Initial Decision**

Following the conclusion of the hearing, the administrative law judge has 20 days to prepare and issue an initial decision and file it with the office of appeals.

The initial decision shall make an initial determination whether the county or contractor or state department acted in accordance with the rules of the state department and/or written policies of the county or contractor for administering the program. The administrative law judge may determine whether statutes were properly interpreted and applied only when no implementing state rules or county or contractor policy exists. The administrative law judge has no jurisdiction or authority to determine issues of constitutionality or legality of departmental rules or county or contractor policy governing the program.

The initial decision shall advise the appellant that failure to file exceptions to the initial decision will waive the right to seek judicial review of a final agency decision which affirms those provisions.

The office of appeals shall promptly serve the initial decision upon each party by first class mail and shall transmit a copy of the decision to the state leap office.

The initial decision shall not be implemented until after the office of appeals completes its review and enters a final agency decision.

### **3.751.482 Review by the Office of Appeals**

The office of appeals of the state department, as the designee of the executive director, shall review the initial decision of the administrative law judge and shall enter a final agency decision affirming, modifying, or reversing the initial decision. The office of appeals may issue an order or remand upon receipt of the initial decision and identification of an issue that warrants an immediate remand before the initial decision is even mailed to the parties. Additionally, the office of appeals may issue an order of remand at the time of its substantive review of an initial decision for final agency decision due to its determination for the need for further clarification, findings, conclusions of law, and/or further proceedings before a final agency decision can be issued. An order of remand is not a final agency decision that is subject to judicial review.

Any party seeking an agency decision which reverses, modifies, or remands the initial decision of the administrative law judge shall file exceptions to the decision with the office of appeals within fifteen (15) days from the date the initial decision is mailed to the parties. Exceptions must state specific grounds for reversal, modification, or remand of the initial decision.

If the party filing exceptions asserts that the administrative law judge's findings of fact are not supported by the weight of the evidence, the party shall simultaneously with or prior to the filing of exceptions request the office of administrative courts to cause a transcript of all or a portion of the hearing to be prepared and filed with the office of appeals. The exceptions shall state that a transcript has been requested, if applicable. Within five (5) days of the request for transcript, the party requesting it shall advance the cost to the transcriber designated by the office of administrative courts unless prior payment is waived by the transcriber.

A party who is unable because of indigency to pay the costs of a transcript may file a written request, which need not be sworn, with the office of appeals for permission to submit a copy of the hearing recording instead of the transcript. If submission of a recording is permitted, the party filing exceptions must promptly request a copy of the recording from the office of administrative courts and deliver it to the office of appeals. Payment in advance shall be required for the preparation of a copy of the recording.

If the exceptions do not challenge the findings of fact, but instead assert only that the administrative law judge improperly interpreted or applied state rules or statutes, the party filing exceptions is not required to provide a transcript or recording to the office of appeals.

The office of appeals shall serve a copy of the exceptions on each party by first class mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The office of appeals shall not permit oral argument.

The office of appeals shall not consider evidence which was not part of the record before the administrative law judge. However, the case may be remanded to the administrative law judge for rehearing if a party establishes in its exceptions that material evidence has been discovered which the party could not with reasonable diligence have produced at the hearing.

While review of the initial decision is pending before the office of appeals, the record on review, including any transcript or recording of testimony filed with the office of appeals, shall be available for examination by any party at the office of appeals during regular business hours.

The state leap office may file exceptions to the initial decision, or respond to exceptions filed by a party, even though it has not previously appeared as a party to the appeal. The state leap office's exceptions or responses must be filed in compliance with these rules. Exceptions may be filed by the state leap office when it did not appear as a party at the hearing shall be treated as requesting review of the initial decision upon the state department's own motion.

In the absence of exceptions filed by any party or the state leap office, the office of appeals shall review the initial decision, and may review the hearing file of the administrative law judge and the recorded testimony of witnesses before entering a final agency decision. Review by the office of appeals shall determine whether the decision properly interprets and applies relevant rules and statutes, and whether the findings of fact and conclusions of law support the initial decision. If a party or the state leap office objects to the final agency decision entered upon review by the office of appeals, the party or state leap office may seek reconsideration of the final agency decision.

The office of appeals shall mail copies of the final agency decision to all parties by first class mail.

For purposes of requesting judicial review, the effective date of the final agency decision shall be the third day after the date the decision is mailed to the parties, even if the third day falls on a Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the final agency decision.

The state leap office or county department shall initiate action to comply with the final agency decision within three working days after the effective date. The state leap office shall comply with the decision within three working days after the effective date even if reconsideration is requested, unless the effective date of the final agency decision is postponed by order of the office of appeals or a reviewing court.

When an appeal results in a final agency decision that an action of the county or state leap office was not in accordance with the rules of the department, or when the county or state leap office so determines after a request for hearing is made, the adjustment or corrective payment will apply retroactively to the date of the incorrect action.

### **3.751.483 Reconsideration of Agency Decision**

A motion for reconsideration of a final agency decision may be granted by the office of appeals for the following reasons:

- A. Upon a showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) day period allowed by section 7.751.482; or
- B. Upon a showing that the final agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the office of appeals to follow a rule, statute, or court decision which requires a different decision.

The office of appeals shall mail a copy of the motion for reconsideration to each party of record and to the state leap office.

The appellant is to be fully informed of by the final agency decision of their further right to apply for judicial review of the final agency decision by filing an action for review in the appropriate state district court. Any such action must be filed in accordance with the Colorado rules of civil procedure within thirty (30) days after the final agency decision becomes effective.

The state leap office will establish and maintain a method for informing, in summary and depersonalized form, all county departments and other interested persons concerning the issues raised and decisions made on appeal.

**3.751.484 Provider Appeals**

Unless properly designated as a representative of an individual, a provider of goods or services to applicants or recipients shall not be granted a hearing concerning an alleged adverse action to an applicant or recipient.

In the case of an appeal by a licensed or certified provider or vendor of services of an adverse action by a county department or contractor or the state department related to provider status, rates, or purchased services, the decision of the administrative law judge is the final agency decision and is not subject to state department review or modification. The decision of the administrative law judge is subject to judicial review pursuant to C.R.S. § 24-4-106 and C.R.S. § 26-1-106.

**3.751.485 Confidentiality**

All information obtained by the county department or contractor concerning an applicant to or a recipient of assistance payments is confidential information. This is to prevent exploitation of applicants and recipients, to eliminate embarrassment to them, and is in recognition of their rights as self-determining individuals who are not limited because of their need for assistance.

The county or contractor shall educate county officials and other persons who have dealings with the state leap office as to the confidential nature of information which may come into their possession through transaction of county or contractor business.

When a technician consults a bank, former employer of an applicant, another social services agency, or other person or entity to obtain information or verification of information to determine eligibility, the identification of the technician as an employee of the county or contractor may, in itself, disclose that an application for assistance has been made by an individual. In this type of contact, the county or contractor should strive to maintain confidentiality whenever possible.

Privacy for interviewing and confidentiality of information are essential. This involves both office facilities and discretion by the technician. Office procedures and facilities should be such that information is not inadvertently revealed to persons not concerned with the affairs of the applicant or recipient. The technician must also use discretion in mentioning county or contractor business outside of the office.

General information not identified with any individual is not confidential and may be released for any purpose, including publication in newspapers. This includes:

- A. Total expenditures
- B. Number of recipients
- C. Statistical data obtained from studies
- D. Social data obtained from studies, reports, or surveys
- E. Expenditures by category of assistance
- F. Expenditures for administration
- G. Salaries paid to employees
- H. Sum of all state leap office expenditures

Information secured by the county or contractor for the purpose of administering the assistance programs (e.g. determining eligibility) is deemed confidential.

Unless disclosure is specifically permitted by the state department, the following types of information are the exclusive property of and are restricted to use by the state, counties, and contractors:

- A. Names and addresses of applicants for and recipients of assistance and/or the amounts of assistance
- B. Information contained in applications, correspondence, and other information concerning any applicant or recipient from whom, or about whom, information is obtained by the county or contractor
- C. Records of state, county, or contractor evaluations of the above information
- D. All information obtained through the state income and eligibility verification system (SIEVES)

**3.751.486 Disclosure of Confidential Information**

No one outside of the county or contractor shall have access to records of the department except for individuals executing the state income and eligibility verification system (SIEVES), child support enforcement officials, federal and state auditors and private auditors for the county or contractor, and the applicant or recipient of public assistance. These individuals shall have access only for purposes necessary for the administration of the programs. Access to the records of the department may be permitted if one of the following conditions is met:

- A. The applicant or recipient is notified and their prior permission for release of information is obtained, unless the information is to be used to verify income or eligibility under administration of the SIEVES. If, the information is needed to provide services to an emergency applicant, and the applicant or recipient is physically or mentally incapacitated to the extent that they cannot sign the release form, and time does not permit obtaining the applicant or recipient's consent prior to release of information, the county or contractor must notify the applicant or recipient immediately after supplying the information. The notification shall include the name and address of the agency which requested the information, the reason the information was requested, and a summary of the information released. If the applicant or recipient does not have a telephone or cannot be contacted immediately, the county or contractor must send written notification containing the required information within three (3) working days from the date the information was
- B. A district attorney makes a written request for information for the purpose of either prosecution for fraud or tracing a parent who has deserted a child.
- C. Verified information obtained from the internal revenue service through the SIEVES may be provided only to persons or agencies directly connected with the administration of the child support enforcement program (if administered by an agency outside of the county department), department of labor and employment, the social security administration, and other agencies in the state when necessary for the administration of other state or federally funded assistance programs or the unemployment insurance program. Counties and contractors shall not release information regarding applicants or recipients to law enforcement agencies, except as provided in this section 3.751.486.b and 3.751.486.d.
- D. Upon request to the state department of human services by the Colorado bureau of investigation, with the responsibility for location and apprehension of fugitive felons (i.e., a person with an outstanding felony arrest warrant), the addresses of a fugitive felon who is a recipient shall be released.

The applicant or recipient shall have an opportunity to examine such pertinent records concerning themselves when those records constitute a basis for adverse action, a hearing, or an appeal. Other requests for information shall be honored only when the individual makes the request in person and their identity is verified or the request is in the form of a written, signed, and notarized statement.

If an applicant or recipient designates an individual, firm, or agency to represent the applicant or recipient at conferences, hearings, or appeals and the representative is designated by completion of form im-17 ("designation of representative"), the representative shall have access to records pertinent to the conference, hearing, or appeal.

Information concerning an applicant or recipient may be released to a district attorney upon presentation of a written request accompanied by evidence that a situation involving fraud or a parent deserting their child is the basis for the request. The release is strictly conditioned upon the information being used solely for one of those two purposes and the person requesting the information must certify the use to be made of the information and that it will not be disclosed or used for any other purpose. No certification shall be required of the county board of social services when its members are acting in their official capacity in administration of social services programs.

The applicant or recipient may execute a formal written release for disclosure of information to other agencies. Before information is released, the county or contractor should be reasonably sure that the confidential nature of the information will be preserved, the information will only be used for purposes related to the function of the inquiring agency, and the standards of protection established by the inquiring agency are equal to those established by the state department.

Information obtained through SIEVES will be stored and processed so that no unauthorized personnel can acquire or retrieve the information. Counties and contractors are responsible for limiting access to SIEVES data to only those individuals requiring access to determine eligibility or otherwise administer the leap program.

All persons with access to information obtained through SIEVES will be advised of the circumstances under which access is permitted and the sanctions imposed for illegal use or disclosure of the information.

The name of an applicant or recipient shall not be disclosed to a group or individual sponsoring a holiday project without first contacting the applicant or recipient to determine if they would like to participate in the project.

Case records shall not be available to volunteer workers. Selected information concerning an individual or family may be made available to the volunteer worker only if the volunteer's supervisor determines that access to the information is necessary.

Should a county commissioner or district attorney seek information about an applicant or recipient which is not in possession of the county or contractor, the requestor shall contact the state leap office.

### **3.751.487      Protection against Discrimination**

Counties and contractors are to administer leap in such a manner that no person will, on the basis of race, color, religion, creed, national origin, ancestry, sex, pregnancy, age, sexual orientation, gender identity, or physical or mental disability, be excluded from participation, be denied any aid, care, services, or other benefits of, or be otherwise subjected to, discrimination in such program.

The county or contractor shall not, directly or through contractual or other arrangements, on the basis of race, color, religion, creed, national origin, ancestry, sex, pregnancy, age, sexual orientation, gender identity, or physical or mental disability:

- A. Provide any aid, care, services, or other benefits to an individual which is different, or is provided in a different manner, from that provided to others;
- B. Subject any individual to segregation barriers or separate treatment in any manner related to access to or receipt of assistance, care, services, or other benefits;
- C. Restrict any individual in any way in the enjoyment or any advantage or privilege enjoyed by others receiving aid, care, services, or other benefits provided under assistance programs;
- D. Treat any individual differently from others in determining whether they satisfy any eligibility or other requirements or conditions which individuals must meet in order to receive aid, care, services, or other benefits provided under assistance programs;
- E. Deny an individual an opportunity to participate in assistance programs through the provision of services or otherwise, or afford them an opportunity to do so which is different from that afforded others under assistance programs;
- F. Deny an individual the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

The references to “aid, care, services or other benefits” includes all forms of assistance, including direct and vendor payments, social services, and information and referral services.

No distinction on the basis of race, color, religion, creed, national origin, ancestry, sex, pregnancy, age, sexual orientation, gender identity, or physical or mental disability is permitted in relation to the use of physical facilities, intake and application procedures, caseload assignments, determination of eligibility, and the amount and type of benefits extended by the county or contractor to applicants or recipients.

The county or contractor shall assure that all other agencies, persons, contractors, and other entities with which it does business are in compliance with the above prohibition against discrimination on a continuing basis. The county and contractor staff are responsible for being alert to any discriminatory activity by other agencies and for notifying the state department concerning any such discriminatory situation.

The state department, through its contact with agencies, persons, and referral services, will be continuously alert to discriminatory activity and will take appropriate action to assure compliance with the prohibition against discrimination. If corrective action is not taken when discriminatory activity is suspected, the state department will notify the state leap office of termination of payments. The county or contractor, upon notification by the state department, will also terminate payments to and association with any agency, person, or resource being used which has been found to continue discriminatory activity in regard to applicants or recipients.

An individual who believes they are being discriminated against may file a complaint with the county, contractor, state department, or directly with the federal government. When a complaint is filed with the county, the county director is responsible for investigating the matter immediately and taking necessary corrective action to eliminate any discriminatory activities found. If such activities are not found, the individual shall be given a written explanation of the outcome of the complaint. If the individual is not satisfied with the explanation, they may direct their complaint, in writing, to the state department, which will be responsible for further investigation. The state department will also carry out an investigation, take necessary corrective action, if any, and provide a written response, upon receiving a complaint made to a contractor or received directly from an individual.

Upon receipt of a complaint alleging discrimination on the basis of race, color, religion, creed, national origin, ancestry, sex, pregnancy, age, sexual orientation, gender identity, or physical or mental disability, the state department shall explain leap policy to the complainant. If there is insufficient information as to the nature or other details concerning the complaint, the state department shall contact the county or contractor in writing to obtain such information. Copies of the letter shall be sent to the complainant. The county or contractor shall reply in writing.

If the state department determines that the county or contractor action is not discriminatory and the complainant disagrees, the complainant has the right to appeal the case to the state department.

If it is found that a county or contractor practice or action is discriminatory, the state department shall immediately initiate corrective action to ensure that any and all discriminatory practices are permanently terminated.

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

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

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

**3.751.489 Electronic Benefit Transfer and Point of Sale Restriction**

Participants are prohibited from using his/her EBT card at automated teller machines and point of sale (POS) devices located in establishments as described in Section 3.751.449 A 1-84.

Individuals' transactions shall be monitored monthly. Individuals who use prohibited ATMs or POS devices shall be contacted by the State Department. Inappropriate usage shall result in:

- 1. Warning that use of the EBT card in prohibited establishments will result in the card being disabled. The state department shall provide education about appropriate use, access, and alternatives.



2. If continued misuse occurs (identified in the usage report after a warning has occurred), the State Department will coordinate with the county department to disable the card and initiate contact with the individual for additional assessment.

**3.751.5 RECOVERY PROCEDURES**

**3.751.51. Recoveries [Eff. 12/1/14]**

County departments/Contractor must institute recoveries to ensure that Heating Fuel Assistance Program benefits do not exceed the maximum amounts described in these rules.

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

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

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

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

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

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

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

In any case where there has been an overpayment, there shall be no recovery from any recipient:

- A. Who is without fault in the creation of the overpayment, and
- B. If such recovery would deprive the person of income required for ordinary and necessary living expenses or would be against equity and good conscience.

The case record shall document the reason why an overpayment is not being recovered.

When the county or contractor has determined that a recipient has received leap benefits to which they were not entitled, the state department:

- A. Determines if the overpayment is to be recovered;
- B. Determines if there was willful withholding of information and considers or rules out possible fraud;
- C. Establishes the amount of overpayment; and
- D. Enters the amount of overpayment and other specific factors regarding the situation into the case record.

When overpayment is not a result of the recipient's willful withholding of information concerning income or other circumstances, such overpayment may be voluntarily deducted from current assistance payments if:

- A. The recipient requests a voluntary deduction, verbally or in writing; and
- B. Such recovery would not deprive the person of income required for ordinary and necessary living expenses or would be against equity and good conscience.

**3.751.56 Fraudulent Acts**

**3.751.561 Definition – Fraud**

“fraud” means an individual secured or attempted to secure or aided and abetted another person in securing public assistance to which the individual was not entitled by means of willful misrepresentation or intentional concealment of an essential fact.

**3.751.562 Referral to the District Attorney**

When the county or contractor determines that it has paid or is about to pay a recipient an assistance payment as a result of a fraudulent act, the facts used in the determination shall be reviewed with the department's legal counsel within the attorney general's office and/or a representative from the district attorney's office. If suspected fraud is substantiated by the available evidence, the case shall be referred to the district attorney. All referrals to the district attorney shall be made in writing and shall include the amount of assistance fraudulently received by the recipient.

If any deduction is being made from the recipient's assistance payment it must be consistent with any court order resulting from a prosecution by the district attorney. If the individual being prosecuted is not a leap recipient, another method of recovery shall be used to collect amounts due to the department.

Interest shall be charged from the month in which the overpayment was received until the date the overpayment is recovered. Interest shall be calculated at the legal rate.

If the district attorney declines to prosecute, the amount of overpayment due, as established by the department, will continue to be recovered by deduction from subsequent assistance payments or other method of recovery if the individual is not a recipient of leap benefits.

**3.751.563 Penalties for Individuals Who Are Found Guilty of Committing Fraud**

Individuals who are found guilty of committing fraud, pursuant to section 26-1-127, C.R.S., in a prior program year shall be ineligible to participate in leap in the subsequent program year for the first violation, two program years for the second violation, and permanently for the third violation.

**3.751.6 REPORTING AND MONITORING**

**3.751.61 Reporting**

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

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

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

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

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

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

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

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

**3.751.7 REIMBURSEMENT AND SANCTIONS**

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

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

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

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

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

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

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

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

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

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

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

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

- A. Inheritance, gifts, and prizes;
- B. Dividends and interest received on savings bonds, leases, etc.;
- C. Income from rental property;
- D. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness or burial that are not covered by other benefits;
- E. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care;
- F. Strike benefits;
- G. Income from jointly owned property: - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received;
- H. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received;
- I. Oil or mineral royalties received by the lessor are income in the month received;
- J. Supplemental Security Income (SSI) benefits received by an applicant or recipient shall be considered income in the month received. When determining income, do not consider cents in the gross benefit amount.
- K. Income derived from monies (or other property acquired with such monies) received pursuant to the "Civil Liberties Act of 1988", P.L. 100-383;
- L. Amounts withheld from unearned income because of a garnishment are countable as unearned income.
- M. Public Assistance Income as defined in 3.751.1: Colorado Works, Old Age Pension (OAP); Aid To The Needy Disabled (AND); Aid To The Blind (AB); Non-Categorical Refugee Assistance (NCRA); Social Security Disability Insurance (SSDI).

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

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

- A. Annuities - payments calculated on an annual basis which are in the nature of returns on prior payments or services; they may be received from any source;
- B. Pension or retirement payments - payments to an applicant or recipient following retirement from employment; such payments may be made by a former employer or from any insurance or other public or private fund;
- C. Disability or survivor's benefits - payment to an applicant or recipient who has suffered injury or impairment, or, to such applicant's or recipient's dependents or survivors; such payments may be made by an employer or from any insurance or other public or private fund;
- D. Worker's compensation payments - payments awarded under federal and state law to an injured employee or to such employee's dependents; amounts included in such awards for medical, legal, or related expenses incurred by an applicant or recipient in connection with such claim are deducted in determining the amount of countable unearned income.
- E. Veteran compensation and pension - payments based on service in the armed forces; such payments may be made by the U.S. Veterans Administration, another country, a state or local government, or other organization. Any portion of a VA pension that is paid to a veteran for support of a dependent shall be considered countable unearned income to the dependent rather than the veteran.
- F. Unemployment compensation - payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment;
- G. Railroad retirement payments - payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board (RRB) to an applicant or recipient who is or was a railroad worker, or to such worker's dependents or survivors;
- H. Social Security Benefits - Old Age (or Retirement), Survivors and Disability Insurance payments (OASDI or RSDI) made by the Social Security Administration; also included are special payments at age seventy-two (72) (Prouty benefits) and black lung benefits. When determining income, do not consider cents in the gross income amount.
- I. Supplemental Security Income (SSI) - public assistance payments made by the Social Security Administration to an applicant or recipient sixty five (65) years of age or older, or who is blind or disabled; such payments are considered in accordance with requirements specified in the applicable assistance program chapter. When determining income, do not consider cents in the gross benefit amount.

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

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

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

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

C. Determining Monthly Income

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

1. Weekly/Bi-Weekly Income

a. Weekly Income

Adding four gross weekly income amounts to obtain total monthly income.

b. Bi-Weekly Income

Adding two gross bi-weekly income amounts to obtain total monthly income.

2. Semi-Monthly Income

Adding two gross semi-monthly income amounts to obtain total monthly income.

3. Partial Month Income

a. Terminated Income

If a household member's income is terminated as of the application date, use actual income received in the income verification period.

b. Earned New Income

If a household member has a new source of earned income as of the application date, use income received in the income verification period.

c. Unemployment/Other Unearned Income

If a household member has not received his/her first check from this source of income as of the income verification period, do not count any income from this source. If the household member has received the income as of the income verification period, use actual income for the income verification period.

4. In-kind income is income received in exchange for employment and shall be considered as earned income whose value is based on the services rendered. The amount considered as earned income when a recipient is paid in lieu of cash is the declared value of the item or service provided.

D. All applicant households whose countable income for the eligibility period is up to and including 60 percent (60%) of the state median income level released by the U.S. Department of Health and Human Services in July 2018 shall meet the income requirements for the Heating Fuel Assistance Program. The State Department shall adjust the income limits annually based on funds available and the state median income guidelines. The following table contains the state median income guidelines:

**HOUSEHOLD INCOME LIMITS**

<b>Household Size</b>	<b>Monthly Gross Income 60% of State Median Income</b>
1	\$2,371
2	\$3,101
3	\$3,831
4	\$4,561
5	\$5,290
6	\$6,021
7	\$6,157
8	6,294
Each Additional Person	\$137

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

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

To determine eligibility for financial assistance and the amount of the assistance payment, the following shall be exempt from consideration as either resources or income. Verification is not required in the case file but must be notated in the Report of Contact (ROC).

- A. The value of food assistance and USDA donated foods;
- B. Benefits received under Title III, Nutrition Program for the Elderly, of the Older Americans Act;
- C. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for Women, Infants and Children (WIC);
- D. Home produce utilized for personal consumption;
- E. The value of any assistance paid with respect to a dwelling unit under:
  - 1. The United States Housing Act of 1937;
  - 2. The National Housing Act;
  - 3. Section 101 of the Housing and Urban Development Act of 1965;
  - 4. Title V of the Housing Act of 1949; or,
  - 5. Section 202(h) of the Housing Act of 1959.
- F. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (score) and Active Corps of Executives (ace) and any other program under Title I (Vista) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act;

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- G. Compensation received by the applicant or recipient pursuant to the Colorado Crime Victims Compensation Act shall not be considered as income, property, or support available to the applicant or recipient. This is compensation paid to innocent victims or dependents of victims of criminal acts who suffer bodily injury;
  - H. Monies received pursuant to the Civil Liberties Act of 1988;
  - I. Any payment made from the Agent Orange Settlement Fund;
  - J. The value of any commercial transportation ticket, for travel by an applicant or recipient (or spouse) among the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the northern Mariana Islands, which is received as a gift by such applicant or recipient (or such spouse) and is not converted to cash;
  - K. Reparation payments made under Germany's law for compensation of national socialist persecution (German Restitution Act);
  - L. Any money received from the Radiation Exposure Compensation Trust Fund;
  - M. Reparation payments made under Sections 500 through 506 of the Austrian General Social Insurance Act;
  - N. Payments to applicants or recipients because of their status as victims of Nazi persecution;
  - O. Income paid to children of Vietnam veterans who were born with spina bifida;
  - P. All financial aid monies, including educational loans, scholarships, and grants, including work study;
  - Q. Earned income of children under the age of eighteen (18) who are residing with a parent or guardian;
  - R. Reimbursement received for expenses incurred in connection with employment from an employer;
  - S. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent gain or benefit to the household;
  - T. Payments made on behalf of the household directly to others;
  - U. Payment received as foster care income; foster care individuals are not considered LEAP household members;
  - V. Home care allowance or Attendant Support Allowance Care, if paid to a non-household member;
  - W. State/county diversion payments;
  - X. Reverse mortgages;
  - Y. Subsidized housing utility allowances;
  - Z. G.I. Bill educational allowances, including housing and food allowances;
  - AA. A one-time resettlement grant received under the refugee admissions program.



- BB. A bona fide loan is a debt that the borrower has an obligation to repay and expresses his or her intention to repay, as documented in a written agreement;
- CC. Funds received by persons fifty five (55) years of age and older under the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act;
- DD. Income that is deemed necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act.
- EE. Money received in the form of non-recurring lump sum payments for income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, and public assistance payments.
- FF. Supportive Services income received under the Colorado Works Program.
- Gg. Money obtained from the liquidation of personal resources.

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

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

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

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

- A. A household shall be vulnerable in order to qualify for Heating Fuel Assistance Program benefits. Vulnerability shall mean the household must be responsible for the costs of home heating as defined below:
  - 1. The household is paying home heating costs directly to a vendor and is subject to home heating cost increases.
  - 2. The household is living in non-subsidized housing and is paying home heating costs either in the form of rent or as a separate charge in addition to rent.
  - 3. The household resides in subsidized housing as defined in the "Definitions" Section of these rules; and, 1) the unit has an individual meter which identifies specific heating usage of that unit and the household is subject to increased cost for home heating, or 2) the tenant is subject to a heating surcharge assessed by means other than an individual meter. Such surcharges may include percentage fees assessed to the tenant for home heating. Excess utility charges are to be specific to home heating and verified by the County Department/Contractor. Under no circumstances shall rental costs be assumed to be subject to change due to an increase in home heating costs unless otherwise verified by the county department/Contractor.
  - 4. The applicant household in a residence where more than one household resides shall be considered vulnerable if the applicant household contributes toward the total expenses of the residence. These expenses include, but are not limited to, shelter and utilities.
  - 5. The applicant household must live in a traditional dwelling.
  - 6. Any applicant who shares a primary fuel, such as a shared natural gas meter, electric meter or propane tank, will be considered a shared household and the Estimated Home Heating Cost (EHHHC) will be divided by the number of parties responsible for paying the shared heat expense.

- B. Households in the following living arrangements shall not be considered to be vulnerable:
1. Institutional group care facilities, public or private, such as nursing homes, foster care homes, group homes, substance abuse treatment centers , or other such living arrangements where the provider is liable for the costs of shelter and home heating, in part or in full, on behalf of such individuals;
  2. Room and board, bed and breakfast;
  3. Correctional facilities;
  4. Dormitory, fraternity or sorority house;
  5. Subsidized housing as defined in the "Definitions" section of these rules which does not have an individual check meter for heat for each unit or which cannot provide other evidence of responsibility for paying home heating surcharges;
  6. Any applicant, or applicant household who is considered homeless or resides in non-traditional dwellings;
  7. Commercial properties that also serve as the client's dwelling;
  8. Hotels, unless proof that the household has lived or will live in the hotel continuously for thirty (30) calendar days at the time of application and that heat is included in rent. Proof may be shown by providing a monthly statement, billing statement or receipt indicating the monthly arrangement.
- C. Landlords or other providers of shelter shall not be considered to be vulnerable unless they meet the definition of household and the eligibility requirements of the Heating Fuel Assistance Program.
- D. Vulnerability shall be verified for all applicant households as defined in these rules.

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

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

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

**B. Households Who Refuse Weatherization**

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

**C. State Weatherization Office Responsibilities**

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

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

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

**A. Exemptions**

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

**B. Households Who Refuse CIP Inspection**

1. Households who refuse to allow the inspection shall not be approved for LEAP benefits for the following year and a LEAP denial hold shall be placed on the household at that address by the state LEAP office. The hold can only be removed by the state LEAP office.
2. If the household has moved to another address, the household may be approved for a LEAP benefit if otherwise eligible.

3. If a denied household subsequently allows the dwelling to be inspected, the household must reapply and, as long as other eligibility criteria are met, may be approved for LEAP benefits after notification from the inspecting agency that the inspection is completed.

**C. State CIP Contractor's Responsibilities**

The state contractor will:

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

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

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

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

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

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

Documents that are acceptable as verification of citizenship can be found at 1 CCR 204-30, Appendix A.

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

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

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

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

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

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

A. For purposes of this section:

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

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

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

“Federal public benefits” has the same meaning as provided in 8 U.S.C. Section 1611 (1998); no later amendments or editions of this section are incorporated. Copies may be available for inspection during regular business hours by contacting Colorado Department of Human Services, Food and Energy Assistance Division, 1575 Sherman Street, Denver, Colorado 80203, or any state publications library.

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

“State or local public benefits” has the same meaning as provided in 8 U.S.C. 1621 (1998); no later amendments or editions of this section are incorporated. Copies may be available for inspection during regular business hours by contacting the Colorado Department of Human Services, Food and Energy Assistance Division, 1575 Sherman Street, Denver, Colorado 80203, or any state publications library.

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

1. Produce and provide:

- a. A valid Colorado driver’s license or a VALID Colorado identification card issued pursuant to Article 2 of Title 42, C.R.S.; or,
- b. A United States military card or military dependent’s identification card; or,
- c. A United States coast guard merchant mariner card; or,
- d. A Native American tribal document; or,
- e. Any other document authorized by rules adopted by the Department of Revenue 1 CCR 204-30; or,

- f. Those applicants who cannot produce one of the required documents may demonstrate lawful presence by both executing the affidavit and executing a request for waiver. The request for waiver must be provided to the Colorado Department of Revenue in person, by mail, or online, and must be accompanied by all documents the applicant can produce to prove lawful presence. A request for a waiver can be provided to the Department of Revenue by an applicant representative.

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

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

2. Execute an affidavit saying that:
  - a. He or she is a United States citizen or legal permanent resident; or,
  - b. He or she is otherwise lawfully present in the United States pursuant to federal law.

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

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

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

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

- A. I-94 arrival/departure record.
- B. I-551: resident alien card I-551).
- C. Forms I-688b or I-766 employment authorization document.
- D. A letter from CIS indicating a person's status.
- E. Letter from the U.S. Dept. of Health and Human Services (HHS) certifying a person's status as a victim of a severe form of trafficking.
- F. Iraqi and afghan individuals who worked as translators for the U.S. military, or on behalf of the U.S. government, or families of such individuals; and have been admitted under a Special Immigrant Visa (SIV) with specific Visa categories of SI1, SI2, SI3, SI6, SI7, SI9, SQ1, SQ2, SQ3, SQ6, SQ7, or SQ9. Eligibility limitations are outlined in Section 3.710.31, I.
- G. Any of the documents permitted by the Colorado Department of Revenue rules for evidence of lawful presence 1 CCR 204-30, APPENDIX B).

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

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

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

A "qualified alien" is defined as follows:

- A. An alien lawfully admitted for permanent residence;
- B. An alien paroled into the United States under the Immigration and Naturalization Act (INA) for a period of at least one year;
- C. An alien granted conditional entry pursuant to Section 203(a) (7) of the INA prior to April 1, 1980;
- D. A refugee;
- E. An asylee;
- F. An alien whose deportation is being withheld;
- G. A Cuban or Haitian entrant;
- H. A victim of severe form of trafficking who has been certified as such by the U.S. Department of health and Human Services (HHS);
- I. Iraqis and Afghans granted Special Immigrant Visa status;
- J. An alien who has been battered or subjected to extreme cruelty in the U.S. by a family member;
- K. An alien admitted to the U.S. as an Amerasian immigrant;
- L. An individual who was born in Canada and possesses at least fifty percent (50%) American Indian blood or is a member of an Indian tribe;

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

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

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

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

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

**3.753.19 Alternate Verification Identification to Establish Lawful Presence [Eff. 12/1/14]**

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

**3.753.2 Residence [Eff. 12/1/14]**

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

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

- A. Acquiring by purchase, rental, or other arrangements housing facilities used as a home;
- B. Household effects, equipment, and personal belongings being located in the home or being in transit;
- C. Securing employment or engaging in other self-supporting activity based in Colorado;
- D. Parents entering children in local schools;
- E. Completing the affidavit of intent – residence form; and/or;
- F. Entering Colorado with a job commitment or in search of employment in Colorado.

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

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

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

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

- A. Refusal of the applicant to furnish information necessary to determine eligibility;
- B. Applicant unwilling to have the county department/Contractor contact a collateral source to secure information and refusal of the applicant to sign the state-approved authorization for release of information form;



- C. Applicant does not supply information or otherwise fails to cooperate with the county department within the standards of promptness time limits and after having received notification of the reason for delay;
- D. Applicant moves to an unknown address before determination of eligibility has been completed;
- E. Refusal of a third party to provide documentation of essential verifications.

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

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

- A. Excess income; 3.752.22 (04).
- B. Not vulnerable to rising home heating costs; 3.752.25 (03).
- C. Not a U.S. citizen or a qualified alien; 3.753.16 (13).
- D. A household is a duplicate household or was previously approved as part of another household; 3.751.2.A (06).
- E. The household has voluntarily withdrawn its application; 3.756.18 (09).
- F. The household has received Heating Fuel Assistance Program benefits from another county; 3.756.17 (10).
- G. The household has failed to provide complete application information or required verification; 3.751.1, "Completed Application" (11).
- H. The household is not a resident of Colorado; 3.753.21 (07).
- I. The household failed to sign the application form; 3.751.1, "Completed Application", (21).
- J. The household filed an application outside of the application period; 3.752.1 (14).
- K. Unable to locate the applicant; 3.756.19 (25).
- L. Refused weatherization services from a state weatherization agency; 3.752.26 (26).
- M. The applicant failed to provide valid identification; 3.753.11 (05).
- N. The applicant failed to provide an affidavit; 3.753.12.B.2 (08).
- O. The applicant failed to provide valid identification; 3.753.11, and the applicant failed to provide an affidavit; 3.753.12.B.2 (18).
- P. Non-traditional dwelling; 3.751.1, (23).
- Q. The household does not reside at the address for which it applied to receive benefits; 3.753.22 (24).
- R. LEAP can only assist with the primary heating fuel for the primary heating source; 3.751.1, (22).
- S. The applicant household refused a bulk fuel delivery, thereby relinquishing the benefit; 3.758.46.C (28).

- T. The household refused inspection of the Crisis Intervention Program work; 3.752.27 (27).
- U. The applicant has been convicted of fraud; 3.751.56 (29).
- V. The household failed to provide necessary verification of income; 3.752.22 (02)
- W. The household is homeless.

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

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

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

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

**3.755 VERIFICATION POLICIES AND CASE RECORD DOCUMENTATION**

**3.755.1 GENERAL**

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

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

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

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

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

The case record shall contain at a minimum:

- A. The application and any other supplemental forms the applicant is required to submit;
- B. Documentation of all verification as required in these rules;
- C. Written explanation on the report of contact of any discrepancy between information contained on the application and information in the LEAP system;
- D. Calculations used to compute income, documentation of the source of estimated home heating costs and any other written notations on the report of contact necessary to provide a clear and adequate record of action taken on the case.

- E. Documentation of all written notices sent to the applicant household requesting missing information and/or verification necessary to determine eligibility and/or payment level.
- F. Complete documentation in emergency or expedited cases including when, to whom, and how a vendor and/or client contact is made.
- G. All historical data used must be present in the file and documented in the Report of Contact (ROC). The date of the roc entry into the state leap system shall be considered the current date stamp on the historical data.

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

Each county department/Contractor shall develop a written policy stipulating the order of the case record, and the content of all records in that county department shall be filed according to that county department policy. If the case record is not an electronic file the county department must stipulate that case record material must be fastened to the file folder in order to secure the information and maintain the filing order.

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

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

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

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

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

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

**3.755.2 VERIFYING INCOME**

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

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

- A. Unearned income, such as pensions or retirement income, veteran's benefits, worker's compensation, unemployment or supplemental security income shall be verified in writing, such as an award letter or cost of living adjustment (COLA) letter, issued after the last general increase for that type of assistance, which shows the gross amount before any deductions. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Copies of bank deposits or checks shall not be adequate verification of gross income.
- B. Verification of child support income shall include at a minimum:
  - 1. Verification through the Automated Child Support Enforcement System (ACSES); or,
  - 2. Verification through the Family Support Registry (FSR); or,

3. Copies of checks, money orders or other document(s) including written statements or affidavits from the non-custodial parent that documents the income paid directly to the custodial parent.
  4. An exception shall be made in cases of domestic violence as defined in Section 18-6-800.3(1), C.R.S., when the applicant provides evidence from a court or participation in the state's Address Confidentiality Program (ACP) pursuant to Section 24-30-2104, C.R.S. Client declaration shall be sufficient in such cases.
- C. Social Security income may be verified by an award letter, issued by the social security administration, after the last general increase. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Gross Social Security income includes income before any deductions for Medicare or other medical insurance. Copies of bank deposit or checks shall not be adequate verification of gross Social Security income.
- D. Earned ongoing income shall be verified for at least four (4) weeks of the eight (8) weeks prior to the application date and shall consist of pay stubs or statements from employers which state the period worked or pay frequency and the actual gross income earned.
- E. Public assistance income shall be verified through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income information via federal and/or state system inquiries (i.e., a copy of applicable CBMS screens).
- F. Verification of income other than public assistance income of applicant households may be obtained through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income verification (i.e., source document name and/or number and document date).
- G. Verification may be obtained by collateral contact, provided that the case record contains complete information on the name and title of the person contacted, the name of the employer or agency, the period of employment and the actual gross income received, earned or unearned.
- H. In verifying zero income, including situations where the shelter expenses exceed income, the county shall examine income of all adult members of the household by using the Department of Labor and Employment (DOLE) verification system and one or more of the following methods:
1. Obtain a reasonable explanation from the household on how they meet shelter expenses and notate in the Record of Contact (ROC) when the explanation is verbally communicated.
  2. Verify final date of employment with last employer;
  3. Colorado Benefits Management System (CBMS).
- I. Verification of self-employment income shall include, at a minimum:
1. Written or verbal declaration of monthly gross income, which may include: Profit and loss statements, i.e., self-employment ledger; and,
  2. Receipts for business-related expenses are required in order to be considered as deductions:

- a. Rent or mortgage is not an allowable expense when the applicant is operating a business from his or her residence.
  - b. Utilities, data and phone bills including cell phones are not allowable expenses when the account is in the name of an individual.
  - c. Fuel expenses are allowable for vehicles used solely for business and for individuals who use personal vehicles that are directly related to the work and necessary to conduct business. The county may accept gas receipts and/or documentation of mileage for those vehicles that are not used solely for business. If using a mileage log, the deduction is then based on the number of miles times the county's established reimbursement rate.
3. Credit card and bank statements are not allowable receipts for business related expenses.
- J. Owners of LLC's or S-Corps are considered employees of the corporation and therefore cannot be considered self-employed. Because they are not considered self-employed, they are not entitled to the exclusion of allowable costs of producing self-employment income. The income from these types of corporations should be counted as regular earned income, not self-employment income. When owners do not pay themselves a salary, but instead pay their personal expenses from the business account, the amount of the personal expenses paid from the business account will be considered their gross earned income. Owners who do not pay themselves a salary, but instead pay their personal expenses from the business account may verify this information in the form of a written statement listing the expenses or can declare this verbally by collateral contact.

**3.755.3 (None)**

**3.755.4 VULNERABILITY**

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

All households shall be required to provide evidence of vulnerability for the primary heating fuel for the residence at the time of application. Evidence of vulnerability may be shown by one of the following:

1. A copy of the current or most recent fuel bill that the household is responsible for paying. The fuel bill is not to exceed one (1) year prior to the date of application for non-approved vendors.
2. Collateral contact with the fuel provider to establish vulnerability. Contact is to be documented in the report of contact (ROC).
3. A copy of the current or previous month's rent receipt if heat is included in rent is also acceptable. The rent receipt must specifically notate that heat and/or utilities are included in rent. A lease, collateral contact or rent statement from the applicant's landlord is required if the rent receipt is not specific.
4. The county/Contractor may use prior year's fuel bill if the information supplied matches the current application/information. If historical information is being used to verify vulnerability, a notation must be made in the case record. If the fuel bill that is submitted as evidence of vulnerability is in the name of a person other than the applicant household, the case record shall contain a notation that explains the discrepancy in names.

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

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

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

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

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

Applicants who use wood as their primary heating fuel must provide a receipt from a wood vendor. Receipts must include the vendor's name, address, telephone number, date and the name and address of the buyer; it must also contain the amount of wood purchased, the date of the purchase and the cost. If the required information is not provided on the receipt, the county must document in ROC and provide further explanation.

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

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

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

**3.755.5 ESTIMATED HOME HEATING COSTS**

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

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

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

**3.755.6 Other Factors Affecting Eligibility and Payment Amounts [Rev. eff. 9/1/11]**

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

**3.756 PROCEDURES FOR PROCESSING APPLICATIONS AND NOTIFYING APPLICANT HOUSEHOLDS**

**3.756.1 PROCEDURES**

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

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

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

- A. The county department/Contractor shall be required to date stamp all application forms, verification, and information upon receipt.
- B. Beginning November 1st, all applications are to be screened upon receipt to determine if the application is in emergency status. All potential emergency applications are to be pended in two (2) business days from the date of application. All regular applications must be entered into the LEAP database in a pending status within ten (10) business days from the date the application is received in the county LEAP office. All applications received within the eligibility period must be added and either approved or denied no later than June 19th.
- C. The county department/Contractor shall be required to review for duplicate applications. The county department/Contractor shall determine if an application is complete as defined in the "Definitions" section of these rules. If an application is not complete, the county department/Contractor shall notify the applicant household, in writing through a LEAP system-generated letter, of information or verification necessary to determine eligibility and/or payment level.
- D. The applicant household shall be provided two (2) calendar weeks from the date the notice is postmarked to provide the requested information and/or verification. Clients who fail to submit the required verification shall have their application denied within processing timelines for emergency and regular applications. However, the county department may extend the period for submission by the applicant of the information requested by the county department/Contractor to complete the application upon a showing of good cause for the applicant's failure to provide the necessary information or verification within the two (2) week period. The extended period shall not exceed two weeks. The term "good cause" as used above is defined as conditions outside the control of the individual such as sudden illness, hospitalization, fire, theft, acts of God, and natural disasters.

If the requested verification is provided after the application is denied, the county or contractor shall reopen and complete processing of the application. The requested verification must be received by June 15th of the current program year.

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

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

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

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

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

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

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

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

If the application is not forwarded within five (5) working days to the county Department of Human Services in the county of residence or contractor in the county of residence the receiving county department of human services will work the application to completion. If the receiving county department of human services pends the application prior to forwarding the application to the county Department of Human Services in the county of residence or contractor in the county of residence, the receiving county department of human services will work the application to completion.

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

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

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

An applicant who voluntarily withdraws his/her application prior to eligibility being determined shall be denied. The applicant may notify the county either in writing or verbally that they are voluntarily withdrawing their application. Verbal notice must be documented in the report of contact (ROC).

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

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

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

- A. A shut-off notice or other documentation of intent to terminate heating services by the heating supplier or landlord or that termination of service has occurred; or,



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

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

### **3.757 PROCEDURE FOR REPORTING ELIGIBILITY AND PAYMENT INFORMATION**

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

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

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

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

### **3.758 PAYMENT POLICIES**

#### **3.758.1 (NONE)**

#### **3.758.2 (NONE)**

### **3.758.3 CHANGES IN HOUSEHOLD COMPOSITION AFFECTING ISSUANCE OF PAYMENT**

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

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

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

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

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

- A. The surviving spouse or other household member shall be entitled to the Heating Fuel Assistance Program payee's benefit provided that the surviving spouse or other household member was included as part of the Heating Fuel Assistance Program payee's household upon Heating Fuel Assistance Program eligibility determination.

- B. In the case of a single member household client payment, the payment will expunge after three hundred sixty-five (365) days. In the case of a single member household vendor payment, the vendor will follow the process outlined in the vendor agreement.

**3.758.4 PAYMENT METHODS**

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

For an approved household which pays home heating costs directly to a fuel vendor, payment shall be made as a vendor payment, provided a written vendor agreement has been secured. The State Department shall be required to provide vendors servicing their county with an opportunity to sign the state prescribed vendor agreement. County departments/Contractor shall provide vendors with applications, brochures, envelopes, and other outreach material. In cases where a written vendor agreement has not been secured, payment shall be issued directly to the eligible household.

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

**3.758.42 - 3.758.45 (None)**

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

- A. When a direct vendor payment is made, the county department/Contractor shall be required:
1. To notify each household of the amount and month such assistance is scheduled to be paid on its behalf,
  2. To notify the household of the vendor to be paid on the household's behalf,
  3. To contact the vendor to explain the vendor payment process, when applicable.
  4. To notify each eligible household in writing of the eligible household's responsibilities to continue to pay toward the household's heating costs. Such notification shall advise the household that the Heating Fuel Assistance Program payment is not intended to totally pay a household's heating costs.  
  
If the household has received a notice from the vendor to terminate services or has already had services terminated, the household is responsible to negotiate a payment arrangement with their vendor.
  5. To notify the vendor in writing of each household's eligibility and projected payment amount.
- B. Prior to any Heating Fuel Assistance Program payment being made directly to a fuel vendor on behalf of an eligible household, the following terms of agreement shall be obtained from the fuel vendor in writing and notice of the same shall be included with the Heating Fuel Assistance Program payment in accordance with a State prescribed form. Any revision or modification of the assurances below, necessitated by unique circumstances, shall be submitted in writing to the State Department for approval prior to execution of the vendor agreement.
- C. Refer to the State approved vendor agreement for specific requirements, conditions and procedures. This agreement is available on the Colorado Department of Human Services web site at [www.colorado.gov/CDHS/LEAP](http://www.colorado.gov/CDHS/LEAP).

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

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

Step A. Determine Estimated Home Heating Costs (EHHC)

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

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

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

	NAT. GAS	PROPANE FUEL OIL	ELEC.	WOOD	COAL	PROPANE BOTTLES	WOOD GATHERING
House, Mobile Home	\$400	\$933	\$1,174	\$630	\$575	\$492	\$300
Duplex, Triplex, Fourplex, Townhouse	\$315	\$538	\$881	\$614	\$482	\$341	\$200
Apartment, Condominium, Hotel, Cabin, Tiny Home	\$240	\$772	\$601	\$594	\$482	\$469	\$200
Camper, 5th Wheel, RV	\$325	\$696	\$781	\$560	\$432	\$335	\$200

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

	NATURAL GAS	PROPANE FUEL OIL	ELECTRIC	WOOD	COAL
House, Mobile Home	\$140	\$327	\$411	\$221	\$202
Duplex, Triplex, Fourplex, Townhouse	\$111	\$189	\$309	\$215	\$169
Apartment, Condominium, Hotel, Cabin, Tiny Home	\$ 84	\$ 271	\$211	\$ 208	\$169
Camper, 5th Wheel, RV	\$114	\$244	\$ 274	\$ 196	\$152

Step B. Initial Statewide Adjustment

The State LEAP office will adjust benefit levels at the beginning of each LEAP program year based upon the projected number of leap applications to be received and the estimated level of funding. Annually, this calculation determines the percentage of the estimated home heating costs (EHHC) of the applicant household to be adjusted.

Step C. Adjustment for Electric Heat

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

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

Step D. Adjustment for Shared Living Arrangements

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

Step E. Adjustment for Subsidized Housing Home Heating Allowance

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

Step F. Determine Heating Fuel Assistance Program Amount

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

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

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

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

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

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

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

**3.759 OUTREACH AND REFERRAL**

**3.759.1 COUNTY DEPARTMENTS**

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

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

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

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

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

**3.759.13 Reporting Requirements**

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

**3.759.2 OUTREACH ACTIVITIES**

**3.759.21**

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

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

**3.759.4 WEATHERIZATION REFERRAL**

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

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

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

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

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

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

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

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

The county's allocation of Program Code 4520 Outreach funds shall not be increased unless the county submits a request for additional outreach funds, which explains and justifies the need for such funds or unless the state department allocates additional funds to all counties.

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### **Editor's Notes**

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

Rule section 3.100, et seq. has been recodified as 9 CCR 2503-1, (Reserved for Future Use).

Rule section 3.200, et seq. has been recodified as 9 CCR 2503-2, (Reserved for Future Use).

Rule section 3.300, et seq. has been recodified as 9 CCR 2503-3, COLORADO REFUGEE SERVICES PROGRAM (CRSP).

Rule section 3.400, et seq. has been recodified as 9 CCR 2503-4, (Reserved for Future Use).

Rule section 3.500, et seq. has been recodified as 9 CCR 2503-5, ADULT FINANCIAL PROGRAMS.

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

Rule section 3.700, et seq. has been recodified as 9 CCR 2503-7, LOW-INCOME ENERGY ASSISTANCE PROGRAMS (LEAP).

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

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

### **History**

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

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

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

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

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

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

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

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

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

Rule 3.751.56 eff. 04/01/2016.

Rules 3.710, 3.711 recodified as 9 CCR 2503-3 eff. 09/01/2016.

Rule 3.750 eff. 11/01/2016.

Entire rule eff. 11/01/2017.

Rules 3.751.1, 3.752.22 D, 3.753.12 A, 3.754.1, 3.755.13 D, 3.755.14, 3.755.21 H-I, 3.755.41 3, 3.755.51, 3.756.2 B, 3.758.47 eff. 11/01/2018. Rules 3.700-3.746 repealed eff. 11/01/2018.

Rules 3.751.1, 3.751.41-3.751.489, 3.751.51, 3.751.55-3.751.563, 3.752.22 D, 3.752.23 GG, 3.754.1 W, 3.755.13 G, 3.755.21 D, J, 3.755.45, 3.756.12 D, 3.756.16, 3.758.47 emer. rules eff. 11/01/2019.

Rules 3.751.1, 3.751.41-3.751.489, 3.751.51, 3.751.55-3.751.563, 3.752.22 D, 3.752.23 GG, 3.754.1 W, 3.755.13 G, 3.755.21 D, J, 3.755.45, 3.756.12 D, 3.756.16, 3.758.47 eff. 12/30/2019.

### **Annotations**

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

Rule 3.751.56 (adopted 09/09/2016) was not extended by Senate Bill 17-083 and therefore expired 05/15/2017.