

Dear Senators LODGE, Broadsword & Werk, and  
Representatives BLOCK, Nielsen & Henbest:

The Legislative Services Office, Research and Legislation, has received the enclosed  
rules of the:

**IDAPA 16.04.14 - Rules Governing Low Income Home Energy**

**Assistance Program (Docket No. 16-0414-0801)**

**(Temporary and Proposed).**

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 12-18-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 1-19-09.

\_\_\_\_\_ The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

**FROM:** Research & Legislation Staff - Paige Alan Parker

**DATE:** December 1, 2008

**SUBJECT:** Department of Health and Welfare - IDAPA 16.04.14 - Rules Governing Low Income Home Energy Assistance Program (Docket No. 16-0414-0801) (Temporary and Proposed)

According to the Department, the temporary and proposed rule contained in Docket No. 16-0414-0801 (hereinafter “amended rule”) is authorized pursuant to section 56-202, Idaho Code, and by 42 U.S.C. sections 8621 and 8629, the Low-Income Energy Assistance Act of 1981. Section 56-202(b), Idaho Code, provides the Department with general and broad rule making authority. Forty-two U.S.C. section 8621 provides for home energy grants, while section 8629 of that title provides for studies and reports on the low-income energy assistance program.

The Governor’s justifications for the amended rule is that “with the increased funds for this program, more low-income families will benefit from this safety net by creating more economic stability through subsidizing their home heating costs. Translated, this meets the statutory requirement under section 67-5226(1)©, Idaho Code, of conferring a benefit.” The temporary rule goes into effect on November 1, 2008.

The Department states that the federal agency that administers this energy program has increase the funds available for low-income home energy assistance.

The Department states that the amended rule will have no fiscal impact to the state general fund. The Department does not state whether the amended rule will impose or increase a fee or charge. The Department states that public hearings will be scheduled if requested in writing by 25 persons, a political subdivision or an agency, not later than December 17, 2008. The Department states that all written comments must be delivered to the Department on or before December 24, 2008. The Department states that negotiated rulemaking was not conducted because the rulemaking is governed by federal law and confers a benefit.

## **ANALYSIS**

The sole change contained in the amended rule is the program eligibility change from 150% to 160% of the specified federal poverty guidelines

## **SUMMARY**

Except for appropriations, the section of the Energy Assistance Act of 1981, does not appear to have been amended since 2005. Therefore, the increase in federal poverty level under the amended rule does not appear to be federally mandated. The Department has broad rulemaking authority in the area of public assistance under section 56-202(b), Idaho Code.

cc: Tamara Prisock, Department of Health and Welfare - Administrative Procedures Section;  
Genie Sue Weppner, Department of Health and Welfare.

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.04.14 - RULES GOVERNING THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

DOCKET NO. 16-0414-0801

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 1, 2008.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, and 42 USC Sections 8621 to 8629, also known as the Low Income Home Energy Assistance Act of 1981.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than December 17, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The federal agency that administers this energy program has increased the funds available for low-income home energy assistance. The availability of these increased funds will help low-income families with the high costs of heating their homes through the winter. Expanding this program will allow more families to benefit from this safety net by creating more economic stability through subsidizing their home heating costs.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

With the increased funds for this program, more low-income families will benefit from this safety net by creating more economic stability through subsidizing their home heating costs.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year.

This rulemaking has no fiscal impact to the state's general fund budget.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these rules confer a benefit and are governed by federal regulations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Genie Sue Weppner at (208) 334-5656.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before December 24, 2008.

DATED this 31st day of October, 2008.

Tamara Prisock  
Department of Health and Welfare  
Administrative Procedures Section  
450 West State Street - 10th Floor

P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-6558 fax  
DHWRules@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0414-0801**

**151. INCOME ELIGIBILITY REQUIREMENTS.**

Assistance under this program is limited to participant households with countable income at or below one hundred ~~five~~ sixty percent (1560%) of the Poverty Guidelines updated annually in the Federal Register by the US Department of Health and Human Services under the authority of 42 U.S.C. 9902(s), effective at the beginning of each program year. Participant households must provide proof of income for all members during the application process.

(~~3-15-02~~)(11-1-08)T

**01. Income Not Counted.** Income listed in Subsections 151.01.a. through 151.01.v. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (3-15-02)

- a.** Benefit payments from Medicare Insurance. (4-5-00)
- b.** Private loans made to the participant or the household. (4-5-00)
- c.** Assets withdrawn from a personal bank account. (4-5-00)
- d.** Sale of real property, if the funds are reinvested within three (3) calendar months. (3-15-02)
- e.** Income tax refunds. (4-5-00)
- f.** Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars (\$30) during the three (3) month period before application for LIHEAP. (4-5-00)
- g.** Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)
- h.** Interest income of thirty dollars (\$30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)
- i.** Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)
- j.** Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (3-15-02)
- k.** Monies from VA-GI Bill for Education. (4-5-00)
- l.** Department of Health and Welfare Adoption subsidies. (4-5-00)
- m.** Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)
- n.** Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)
- o.** Value of food stamps or donated food to household. (4-5-00)
- p.** Utility allowance. (4-5-00)
- q.** TAFI lump sum payments. (3-15-02)

r. Tribal crop or land payments. (3-15-02)

s. AmeriCorps stipend. (3-15-02)

**02. Income Received Monthly.** To determine LIHEAP eligibility and benefit amount, when participant household income is received at least monthly, use the three (3) month's income prior to the date of application. (4-5-00)

**03. Income Received Less Often Than Monthly.** For household income received less often than monthly convert the income into a three (3) month amount: (4-5-00)

a. Multiply income received weekly by twelve and nine tenths (12.9). (4-5-00)

b. Multiply income received every two (2) weeks by six and forty-five hundredths (6.45). (4-5-00)

c. Multiply income received twice each month by six (6). (4-5-00)

**04. Seasonal and Self-Employment Income.** For households with seasonal or self-employment income divide the annual income by four (4). (4-5-00)

**05. Treatment of Undocumented Resident Income.** If a household includes eligible and ineligible undocumented resident participants, and one (1) or more of the ineligible participants had income during the reporting period, count the ineligible participants' income and exclude the undocumented resident from the household count. (3-15-02)