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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

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The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

Summary

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35 and currently authorized through FY2004, is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. The statute authorizes appropriations for LIHEAP grants, which are allotted to all states, and for contingency funds, which are allotted to one or more states at the Administration's discretion and based on emergency need.

On February 5 the Department of Health and Human Services (HHS) announced it was releasing an additional \$191.5 million in LIHEAP funds. A little more than half of this money (\$99.4 million) is the total amount of these contingency funds appropriated for FY2004 (P.L. 108-199). A part of these contingency funds (\$40 million) was released to all states under the regular block grant formula and the remainder went to 18 states and the District of Columbia, which experienced an unusually cold January. The remaining funds (\$92.1 million) are part of the regular FY2004 block grant and became available in late January after the enactment of the final appropriation. That law provided a higher funding level than had been assumed by HHS for the earlier release of FY2004 funds under the continuing resolution and the additional regular funds went to all states to complete their first and second quarter LIHEAP funding requests.

The final FY2004 appropriation for LIHEAP is \$1.789 billion in regular funds and \$99.4 million in contingency funds. As of February 5, HHS has made available a total of \$1.642 billion of the total FY2004 regular and contingency funds appropriation. There are no additional contingency funds available. Remaining regular funds will be released as part of third and fourth quarter allotments, however many states request all or most of their LIHEAP funding in the first two quarters. The President's FY2005 budget requests a little more than \$2 billion for LIHEAP. This includes \$200 million in contingency funds, \$1.8 billion for regular block grant distribution and \$500,000 to fund an evaluation of the program.

Authorization for LIHEAP is set to expire at the end of FY2004. In October the Senate Health, Education, Labor and Pensions (HELP) Committee ordered S. 1786 reported (S.Rept. 108-210). The bill would reauthorize LIHEAP at an annual funding level of \$3.4 billion in each of FY2004-FY2006 and at such sums as necessary through FY2010. It would also make specific increases in energy costs or extremes in weather an automatic trigger for release of contingency funds; extend authorization for the Residential Energy Assistance Challenge (REACH) Option under LIHEAP and require the General Accounting Office (GAO) to evaluate this initiative; and require HHS to evaluate LIHEAP performance, develop a protocol for states to collect certain consumer statistics from energy distributors and study other specific factors. The House Education and Workforce Committee held a hearing on LIHEAP in July but has not debated specific reauthorization language. This report provides background on LIHEAP and will be updated as significant program events or legislative activities occur.

Contents

Introduction	1
Federal eligibility standards and grantee responsibility	1
Kinds of energy assistance available	2
Participation and benefit levels	3
Funds and allocation	5
Legislative history	8
Recent Developments	9
FY2004 funds appropriated and released	9
President's FY2005 Request	10
Program authorization	10
Current Issues	11
Release of contingency funds	11
LIHEAP formula	13
Performance measurement	14

List of Tables

Table 1. LIHEAP Heating/Winter Crisis Aid — Eligible and Served Households, Benefit Received, and Costs Offset, Selected Years	4
Table 2. Level of Funds Appropriated and Resulting Distribution Factors for LIHEAP Regular Funds	7
Table 3. LIHEAP Funding Trends: FY1982-FY2005	16

The Low-Income Home Energy Assistance Program (LIHEAP): Program and Funding Issues

Introduction

The Low-Income Home Energy Assistance program (LIHEAP), established in 1981 by Title XXVI of P.L. 97-35 and currently authorized through FY2004, is a block grant program under which the federal government gives states and other jurisdictions annual grants to operate home energy assistance programs for low-income households. The most current available Department of Health and Human Services (HHS) estimate of households served by LIHEAP is for FY2001 when some 4.8 million households received winter heating/crisis assistance. In that same year about 250,000 households received cooling assistance and some 87,000 received summer crisis aid.¹ According to a survey done by the National Energy Assistance Directors Association (which represents state LIHEAP directors), the number of households receiving winter heating assistance in FY2002 stood at approximately 4.6 million. No comparable cooling assistance data are available for FY2002.

LIHEAP is a federally funded block grant program designed to ease the energy cost burden of low-income households. Federal requirements are minimal and leave most important program decisions to the states, the District of Columbia, U.S. territories and commonwealths, and Indian tribes and tribal organizations (collectively referred to as grantees) who receive federal funds. The federal government (HHS) may not dictate how grantees implement “assurances” that they will comply with general federal guidelines.

Federal eligibility standards and grantee responsibility. Federal law limits eligibility to households with incomes up to 150% of the federal poverty income guidelines (or, if greater, 60% of the state median income). States may adopt lower income limits, but no household with income below 110% of the poverty guidelines may be considered ineligible. States may separately choose to make eligible for LIHEAP assistance any household where at least one member is a recipient of Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Food Stamps, or certain needs-tested veteran’s programs.

Within these limits, grantees decide which, if any, assistance categories to include, what income limits to use, and whether to impose *other* eligibility tests. The

¹ Some households that received cooling aid may also have received summer crisis aid and there is no available unduplicated estimate of households receiving cooling/summer crisis aid.

statute gives priority for aid to households with the greatest energy needs or cost burdens, especially those that include disabled or frail elderly individuals or young children. Federal standards require grantees to treat owners and renters “equitably,” to adjust benefits for household income and home energy costs, and to have a system of “crisis intervention” assistance for those in immediate need. LIHEAP assistance does not reduce eligibility or benefits under other aid programs. Federal rules also require outreach activities, coordination with the Department of Energy’s Weatherization Assistance Program, annual audits and appropriate fiscal controls, and fair hearings for those aggrieved. Grantees decide the mix and dollar range of benefits, choose how benefits are provided, and decide what agencies will administer the program.²

Kinds of energy assistance available. Funds are available for four types of energy assistance to eligible households:

- help paying heating or cooling bills;
- low-cost weatherization projects (e.g. window replacement or other home-energy related repair; limited to 15% of allotment unless grantee has waiver for up to 25%);
- services to reduce need for energy assistance (e.g. needs assessment, counseling on how to reduce energy consumption; limited to 5% of allotment); and
- help with energy-related emergencies (winter or summer crisis aid).

The majority of LIHEAP funding is used to offset home heating costs. In FY2001 approximately 75% of all LIHEAP funds were used to provide heating assistance or crisis aid related to heating needs; all states (including the District of Columbia) provided some heating assistance and 48 offered crisis aid related to heating needs. In that same year, approximately 3% of funds were used for cooling/summer crisis aid; 16 states offered some cooling assistance and 6 offered summer crisis aid. Also in FY2001 about 10% of total LIHEAP funds were used for weatherization services, (provided by 45 states); and just under 1% of the FY2001 funds were used to offer services to reduce the need for energy assistance (provided by 21 states).³

² Information regarding state LIHEAP program characteristics and contacts is available at [<http://www.ncat.org/liheap/sp.htm>].

³ Remaining available LIHEAP funds were spent on administration (7%), carried over for use in FY2002 (3%), or were related to REACH/leveraging incentive activities (1%). Percentages are based on total amount of states’ estimated LIHEAP obligations for FY2001 (\$2.3 billion). Two states offering weatherization services in FY2001 and one state offering cooling assistance in that year used funds that were obligated in FY2000. See U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance, *Low Income Home Energy Assistance Program: Report to Congress for FY2001*, Aug. 2003, p. iii, v, 14. (This report hereafter cited as *LIHEAP: Report to Congress, FY2001*.)

Participation and benefit levels. States reported that in FY2001 (most recent year for which HHS-compiled data are available) approximately 4.4 million households received assistance with heating payments; 250,000 received cooling aid; 1.4 million received winter crisis aid; 87,000 received summer crisis aid; and 97,000 received weatherization assistance. HHS uses these data to estimate a combined total of households that received winter crisis and/or heating assistance — 4.8 million households in FY2001. However, because one household may receive multiple kinds of assistance, it is not possible to add each of the household counts together to determine the number of unduplicated households aided by any type of LIHEAP aid.⁴ Overall, since the LIHEAP program began in the early 1980s, both the percentage of eligible households served and absolute number of households receiving heating/winter crisis assistance have been in decline. However, in FY2001 both figures increased. (See **Table 1** below.)

In FY2001, the average household LIHEAP heating/winter crisis benefit was \$364 (compared to \$271 in FY2000 and \$237 in FY1999). The constant dollar value of LIHEAP heating/winter assistance benefits declined for much of the program's history but has risen somewhat in the most recent fiscal years. Over the life of the program both an increase in the size of the total home heating bill for households that receive LIHEAP heating/winter assistance and a decrease in the value of assistance benefits has eroded the amount of home heating expenses covered by LIHEAP. However, across this same program life span, the average portion of household income used by recipients of LIHEAP heating/winter assistance declined significantly — from a high of 8.3% in FY1983 to a low of 3.3% in FY2000. Thus, while LIHEAP benefits cover a smaller portion of the bill than in earlier years, the portion of household income required for home heating by LIHEAP-recipient households is less than when the program began. After taking into account their LIHEAP benefit, LIHEAP-recipient households spent an average of 1.0% of their total income for heating in FY2000 compared to 2.6% in FY1983. (See **Table 1** below.)

The Census Bureau's March 2001 Current Population Survey (CPS), indicates that among all households receiving LIHEAP heating assistance about 37% had at least one member 60 years of age or older; about 39% had at least one disabled member; and some 20% included at least one child 5 years of age or younger. The March 2001 CPS data also showed that a minority of households receiving LIHEAP heating assistance also received other kinds of federal aid: an estimated 12% received TANF; 27% received SSI; and 27% lived in rent-subsidized or public housing.⁵

⁴ *LIHEAP: Report to Congress, FY2001*, p. 18.

⁵ *LIHEAP: Report to Congress, FY2001*, pp. 19-21.

Table 1. LIHEAP Heating/Winter Crisis Aid — Eligible and Served Households, Benefit Received, and Costs Offset, Selected Years

	Fiscal Year								
	1983	1987	1990	1993	1997	1998	1999	2000	2001
Households									
Number receiving aid (in millions)	6.8	6.8	5.8	5.6	4.3	3.9	3.6	3.9	4.8
Number federally eligible (in millions)	22.2	24.1	25.4	28.4	29.0	29.1	29.0	29.4	29.9
Federally eligible and receiving aid	31%	28%	23%	20%	15%	13%	12%	13%	16%
Benefit Levels									
Average benefit (nominal dollars)	\$225	\$216	\$209	\$201	\$213	\$213	\$237	\$270	\$364
Average benefit (constant 1981 dollars) ^a	\$209	\$176	\$147	\$129	\$118	\$117	\$128	\$140	\$187
Costs Offset									
Portion of winter heating bill covered by LIHEAP (for all federally eligible households) ^b	18%	19%	15%	11%	9%	9%	9%	9%	NA ^c
Portion of household income required for home heating (for LIHEAP-recipient households)	<i>Before receiving LIHEAP benefit</i>								
	8.3%	5.8%	4.5%	4.7%	4.0%	3.4%	3.3%	3.3%	NA ^c
	<i>After receiving LIHEAP benefit</i>								
	2.6%	2.2%	2.0%	2.4%	1.9%	1.3%	1.1%	1.0%	NA ^c

Source: Table compiled by Congressional Research Service based on information provided by or included in the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance, *LIHEAP Home Energy Assistance Notebooks* for FY1998, FY2000, and FY2001; and *LIHEAP Report to Congress, FY2001*.

a. The constant dollars are based on the 1981 value of the benefit (using the CPI-U index).

b. These percentages represent the portion of combined home heating costs for all households federally eligible for LIHEAP that was offset by LIHEAP heating/winter crisis assistance.

c. FY2001 data on these trends are not available from the *LIHEAP Home Energy Assistance Notebook for FY2001*.

Apart from federal funding levels (discussed below), a variety of factors help determine to what extent LIHEAP is able to meet its stated goal of assisting low-income households in meeting their home energy needs.⁶ These include:

- the cost of energy for a given household (influenced by energy price fluctuations and variation in kinds of fuels used);
- the amount of energy consumed (influenced by severity of the weather, energy efficiency of housing, and expected standards of comfort);
- the number of eligible households (influenced by population size and health of the economy).

Funds and allocation. The LIHEAP statute authorizes regular funds appropriations, which are allocated to all states based on a statutory formula, and contingency fund appropriations, which are allocated to one or more states at the discretion of the Administration. It also authorizes a smaller amount of funds for incentive grants to states who leverage non-federal resources for their energy assistance programs and allows states to draw on certain other resources.

Regular funds. Regular funds are distributed to states according to a three-tier formula included in the LIHEAP statute and based on the level of funds appropriated in a given fiscal year.⁷ Although provision of cooling assistance has been authorized from the beginning of LIHEAP (initially only when medically necessary), the original method for distributing regular funds was largely based on home *heating* needs of low-income households. The statute also did not provide for the use of updated population, home heating need, or other data.

In 1984 (P.L. 98-558) Congress enacted a new distribution formula that requires taking into account the home energy needs of low-income households — whether heating or cooling related — and also provides that the data used for calculating the distribution should be the most recent available. However, in order for these new measures to be used, Congress also stipulated that — for FY1986 and succeeding years — no state could receive less money than it would have received in FY1984 (had the LIHEAP funding in that year been \$1.975 billion). Funding levels for LIHEAP have only twice exceeded this level and thus the original distribution formula has been used in every year beginning with FY1987.

Should a higher funding level bring the new distribution formula into effect, the use of current data, particularly updated population numbers, as well as the much increased weight given to cooling needs, would significantly alter the share of LIHEAP funds that states receive. At the same time, should funding increase to

⁶ See also CRS Report RS20761, *LIHEAP and Residential Energy Costs*, by Bernard Gelb.

⁷ States are defined to include the District of Columbia. Indian tribes receive funds out of state allotments that are proportionate to their share of LIHEAP-eligible households in the state. Before state allotments are made the statute provides that at least one-tenth (but not more than one-half) of 1% of the total appropriation must be set-aside for energy assistance in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands.

certain specified amounts, the three-tier formula now written in law includes provisions designed to maintain an absolute dollar as well as percentage share (or rate) amount of funding that a state could expect to receive. These stipulations are referred to as “hold-harmless” provisions.⁸ The three-tier current law formula is described in more detail below.

Tier I. For funding levels at or below \$1.975 billion⁹ states receive a fixed share of the total funds (or a rate) that was first used in FY1981. This Tier 1 rate has been used to distribute regular LIHEAP funds in every program year except FY1985 and FY1986. It was created using formula factors that resulted in greater proportionate funding for cold-weather states with the highest number of low-income households.

Tier II. For appropriations above \$1.975 billion¹⁰ and up to \$2.25 billion a Tier II rate applies. This distribution rate is based on the most current available data regarding home energy expenditures (heating and cooling) of low-income households. However, under this new distribution rate no state may receive less *funding* than it would have under the Tier 1 distribution rate *as it was in effect for FY1984* (and assuming a \$1.975 billion appropriation). To ensure this “hold-harmless” provision can be met, those states with the greatest increase in their funding rate must have that percentage share of funds ratably reduced. The Tier II distribution effectively ensures that, given the required increase in LIHEAP funding, a state cannot receive less than a state-specific absolute dollar amount.

Tier III. For funding levels at or above \$2.25 billion a Tier III rate is applied. The Tier III rate uses the Tier II methodology to distribute funds but adds a second hold-harmless requirement. States that would receive less than 1% of a \$2.25 billion appropriation must be allocated funds using the rate they would have experienced at a hypothetical \$2.14 billion appropriation (if this rate is greater than the calculated rate at \$2.25 billion). In both the Tier II and Tier III rates, a state will not be allocated less funds than the state received under the Tier I distribution as it was in effect in FY1984 (had the appropriation level been \$1.975 billion). The Tier III distribution, however, effectively ensures that (given the required increase in LIHEAP funding) state LIHEAP programs must receive a state-specific minimum share (or rate) of the total funding. (See **Table 2** below.)

⁸ For more information on the formula and the percentage share of funds a state would receive at various levels of funding, see CRS Report RS21605, *Low-Income Home Energy Assistance Program (LIHEAP): Estimated Allocation Rates*, by Julie Whittaker.

⁹ Current law provides that when the newer formula is used a state cannot receive less money than it would have received in FY1984 at a \$1.975 billion funding level. Since this language was enacted, Congress further provided that HHS could use regular LIHEAP funds appropriations for Training and Technical Assistance (P.L. 99-425) and it also authorized Leveraging Incentive Grants (P.L. 101-501) and the REACH option (P.L. 103-252) — both of which it generally funds out of regular LIHEAP funds. These debits on the regular funds account were not in place for FY1984. Because they affect the level of regular funds available for state grant allotments by a little more than \$25 million it is possible that HHS would not implement the newer formula before a regular funds appropriation level reaches just above \$2 billion.

¹⁰ See immediately previous footnote.

Table 2. Level of Funds Appropriated and Resulting Distribution Factors for LIHEAP Regular Funds

Funds appropriated	Statutory directive	Data used	Hold Harmless
<i>Tier 1</i> \$1.975 billion or less	P.L. 97-35 created LIHEAP and effectively directed that funds be distributed as they had been in FY1981 for a predecessor energy assistance program.	Heating degree days (squared), residential energy expenditures, home heating expenditures, and number of low-income households. (NOTE: These data are not updated and remain fixed at the values that were current circa 1980.)	Not applicable.
<i>Tier 2</i> more than \$1.975 billion but less than \$2.25 billion	At this funding level, P.L. 98-558 amended the LIHEAP statute to provide that state allotments be determined according to “expenditures for home energy by low-income households” and based on the “most recent satisfactory data” available to HHS.	Heating degree days, cooling degree days, heating expenditures, cooling expenditures, type of energy used, cost of energy, number of low-income households and the method of heating or cooling used by low-income households. (NOTE: Data used are to be current.)	States with greatest proportionate increase in their rate of funding must have their share of funding (or rate) reduced to ensure that no state receives less money than it would have received for FY1984 (if the appropriation that year would have been \$1.975 billion).
<i>Tier 3</i> \$2.25 billion or more	Same as for Tier 2	Same as for Tier 2.	Same as for Tier 2; in addition, any state that would receive less than 1% of a total \$2.25 billion appropriation must be allocated funds at the rate it would have received at a \$2.14 billion appropriation (if this rate is greater than it would be at \$2.25 billion).

Source: Table prepared by the Congressional Research Service.

Contingency funds. The statute currently provides an annual authorization of \$600 million for LIHEAP contingency funds. Appropriated contingency funds may only be released at the discretion of HHS and may be allocated to one or more states based on their needs. The statute authorizes appropriation of contingency funds “to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency.” The term “emergency” is defined in the LIHEAP statute to include: a natural disaster; a significant home energy supply shortage or disruption; significant increases in the cost of home energy, home energy disconnections, participation in public benefit programs, or unemployment; or an “event meeting such criteria as the [HHS] Secretary may determine to be appropriate.”

Leveraging incentive and REACH funds. In 1990, P.L. 101-501, amended the program statute to provide a separate funding authorization of \$50 million (\$30 million if regular funds appropriated are under \$1.4 billion) for incentive grants to states that leverage non-federal resources for their LIHEAP programs. Such resources might include negotiated lower energy rates for low-income households or separate state funds. States are awarded incentive funds in a given fiscal year based on a formula that takes into account their previous fiscal year success in securing non-federal resources for their energy assistance program. In 1994 (P.L. 103-252) the statute was further amended to provide that of any incentive funds appropriated, up to 25% may be set aside for the Residential Energy Assistance Challenge Option (REACH). Under the REACH option states may be awarded competitive grants for their efforts to increase efficiency of energy usage among low-income families and to reduce those families’ vulnerability to homelessness and other health and safety risks due to high energy costs. Although the funding authorization for Leveraging Incentive and REACH grants is separate, in practice, Congress has funded these initiatives at \$22 million to \$30 million with dollars set-aside out of annual regular fund appropriations.

Other funds. States are allowed to carry over unused funds from a previous fiscal year (limited to 10% of funds awarded a state). A diminishing amount of money may also be available from previously settled claims of price control violation by oil companies.¹¹ Finally states have the authority to transfer funds to LIHEAP from certain other federal block grants (including TANF).

Table 3 (at the end of this report) shows a history of actual and proposed LIHEAP appropriations for each of FY1982-FY2004.

Legislative history. Since it was created by the Low Income Home Energy Assistance Act of 1981 (Title XXVI of P.L. 97-35), the LIHEAP program has been reauthorized or amended six times. The legislation and some of the significant changes made are briefly discussed in the following paragraph.

¹¹ *LIHEAP: Report to Congress, FY2001*, pp. 10-11. For FY2001 \$1.3 million in oil overcharge funds was obligated by 1 state.

In 1984, P.L. 98-558, established a new formula by which regular LIHEAP funds are to be distributed in every year (after FY1985) in which regular appropriations exceed \$1.975 billion. (This level of funding was exceeded in FY1986 but has not been reached in any year since then.) In 1986, P.L. 99-425 extended the program with few changes. In 1990, P.L. 101-501 created the Incentive Program for Leveraging Non-Federal Resources and authorized a July to June program year (or forward funding) for LIHEAP to allow state program directors to plan for the fall/winter heating season with knowledge of available money. (This program year language was subsequently removed although the statute now states that money appropriated in a given fiscal year is to be made available for obligation in the following fiscal year. Congress last provided advance appropriations for LIHEAP in the FY2000 appropriations cycle.) In 1993, P.L. 103-43 extended the authorization of LIHEAP for one year but made no other changes. In 1994 (P.L. 103-252) Congress stipulated that LIHEAP benefits and outreach activities target households with the greatest home energy needs (and costs), and it enacted a separate and permanent contingency funding authorization of \$600 million for each fiscal year. The 1994 law also established the competitive REACH grant option. In 1998, P.L. 105-285 authorized annual regular funding for each of FY2002-FY2004 at \$2 billion and made explicit a wide variety of situations under which HHS is authorized to release LIHEAP contingency funds.

Recent Developments

FY2004 funds appropriated and released. The final agreement on the FY2004 omnibus spending measure made available \$1.789 billion in regular LIHEAP funds for this fiscal year and \$99.4 million in contingency funds. The agreement was signed into law on January 23, 2004 (P.L. 108-199) and sets the total appropriated FY2004 funds (as of February 5, 2004) at \$1.899 billion. For FY2003 Congress made available a total of \$1.788 billion in regular funds (P.L. 108-7) and an additional \$200 million in previously appropriated contingency funds (P.L. 107-20) were also released, which brought the total FY2003 program funds to \$1.988 billion.

On February 5, 2004 HHS announced the release of \$191.5 million in FY2004 LIHEAP funds of which \$99.4 million were contingency funds and \$92.1 million regular funds. This brings to \$1.642 billion the total amount of all FY2004 LIHEAP funds that have been released.

Contingency funds. Of the FY2004 contingency funds released close to \$40 million were distributed to all states based on the regular block grant formula distribution. The remaining funds were distributed to states which experienced colder than normal temperatures in January. The amount of funding to these states was based on both the severity of the cold in the state and its relative share of regular block grant funds. These funds went to 18 states (MA, CT, RI, VT, NY, NJ, PA, ME, DE, MD, UT, AK, NH, OH, MI, VA, WV, ND) and the District of Columbia. All of the recently appropriated FY2004 LIHEAP contingency funds have now been distributed and as of February 5, 2004, no additional contingency funds are available for release.

Regular Funds. The February 5 release of LIHEAP funds also included \$92.1 million in regular funds that became available because the final FY2004 appropriation was higher than had been assumed by HHS when it distributed first and second quarter LIHEAP funds to states. Under the series of continuing funding resolutions that funded federal government spending through much of the first four months of FY2004, HHS had made regular first and second quarter awards to states based on an assumed annual funding level of \$1.689 billion. The final regular grant funding level (\$1.789 billion) exceeded this amount and thus the early February release will give states their full first and second quarter allotments based on this higher amount. Many states request the allotment of all or most of their LIHEAP program funding in the first or second quarter of the fiscal year. Twelve states (AR, GA, IL, KY, MN, MS, MT, NM, ND, RI, TX , WA) and the District of Columbia requested their full FY2004 LIHEAP allotments in the first two quarters and an additional 23 states had received 90%-98% of their FY2004 allotments at this assumed funding level.¹²

President's FY2005 Request. In his FY2005 budget, President Bush called for a little more than \$2 billion in total LIHEAP funding, of which \$1.8 billion would be for regular fund allotments, \$200 million would be for contingency funds and \$500,000 would be set-aside for a national evaluation of LIHEAP. The President's budget documents include a program performance rating for selected federal programs. LIHEAP is rated as a program for which "results [are] not demonstrated." According to this review, the program purpose is clear, it addresses a specific existing need, and has a number of additional strengths including effective targeting of intended beneficiaries. However, the review notes that the program's "effectiveness or efficiency" is hampered by the current law formula, it has limited and only recently developed outcome measures, and there have been no independent evaluations (of "sufficient scope and quality") that demonstrate the program's effectiveness. The Administration is proposing that Congress make available \$500,000 to conduct a feasibility study regarding a nationally representative evaluation of LIHEAP program operations.

Program authorization. LIHEAP authorization is scheduled to expire at the end of FY2004. In October 2003 the HELP Committee ordered reported to the Senate a bill (S. 1786) that would extend LIHEAP with an annual funding authorization of \$3.4 billion in each of FY2004-FY2006 and at such sums as necessary through FY2010. S. 1786 would also make specific increases in energy costs, or extremes in weather, an automatic trigger for release of contingency funds; extend authorization of leveraging incentive grants and the Residential Energy Assistance Challenge (REACH) option under LIHEAP and would require the GAO to evaluate the REACH option; and, finally, it would require HHS to evaluate LIHEAP performance, develop a protocol for states to collect certain consumer statistics from energy

¹² A portion of the first quarter funds states requested was released on October 16 (\$852 million) and the remaining first quarter funds requested were released (\$273 million) on December 19. Full second quarter requests were made available on January 1, 2004 (\$325 million). A small portion of these total funds were released to tribes and territories. Additional information and tables showing allocations by state may be viewed at [<http://www.ncat.org/liheap/news/Dec03/HHSfundingrelease.htm>].

distributors, study other specific factors relevant to the programs' operation and to report these findings to Congress within two years.

The House Education and Workforce Committee held a hearing on LIHEAP in July but has not debated specific reauthorization language.¹³ However, on November 18, 2003 the full House voted to support the conference agreement reached on the Energy Policy Act of 2003 (H.R. 6, H.Rept. 108-375). That agreement would raise regular LIHEAP funding authorization to \$3.4 billion in each of FY2004-FY2006 and would require HHS to prepare a report for Congress on how LIHEAP could more effectively prevent loss of life from extreme temperatures. However, as of February 5, 2004, the Senate has not yet voted on this conference agreement and its fate in that chamber remains unclear.

Current Issues

Congress has shown recent interest in adjusting the method by which contingency funds are released, revisiting the formula used to distribute regular LIHEAP funds, and in performance measurement.

Release of contingency funds. Contingency funds are appropriated by Congress "to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency." Current law provides a broad definition of such emergencies, but gives HHS (acting on behalf of the President) sole discretion to determine when events warrant the release of contingency funds, what states (or state) are to receive contingency funds, and under what formula this money will be distributed.¹⁴ Depending on the language used in the appropriations act, contingency funds that are not released by HHS in the fiscal year for which they are appropriated may revert to the federal treasury at the end of the fiscal year (expire), or they may remain available for a specified number of years or until expended.

S. 1786, as reported by the Senate HELP committee would amend current law to establish two conditions that would *require* HHS to release available contingency funds to affected states. Those conditions would be: 1) if there is an increase of at least 20% in the cost of home energy over the previous 5-year average for a duration of a month or more in one or more states or regions; or 2) if one or more states experience hot or cold weather that is significantly more severe than average (i.e. the number of heating degree days or cooling days for a month is more than 100 above the 30-year average).¹⁵ This proposal is in keeping with the committee's reported

¹³ To view a printed record of this hearing select Hearing on LIHEAP & CSBG, July 8, 2003, at [<http://edworkforce.house.gov/hearings/108th/edr/edrhearings.htm>].

¹⁴ P.L. 105-285, which last reauthorized LIHEAP, defined the term "emergency" broadly and added a "natural disaster" as a possible cause for the release of LIHEAP contingency funds. In explaining these changes, S.Rept. 105-256 noted that the changes were intended to clarify when contingency funds may be released and particularly to assert that emergencies need not be temperature driven.

¹⁵ A heating degree day equals the number of degrees below 65°F in a given day. For
(continued...)

concern that “emergency funds appropriated in FY2001 and FY2002 were not distributed to States despite requests from Congress and Governors for the release of funds.” The committee report also encourages HHS “to consider all factors defined in the statute” when making decisions about release of contingency funds.¹⁶

Current law provides that “a significant increase in home energy disconnections” may be considered an emergency that warrants release of contingency funds. In keeping with its desire for HHS to “monitor arrearage trends nationwide” and to consider a significant increase in energy utility arrearages as part of this “disconnection criteria” for releasing contingency funds, the committee-reported S. 1786 would also require HHS to develop a protocol for states to collect information from energy vendors on a range of residential customer statistics. In addition to overall statistics on the number of disconnections for nonpayment and the number of reconnections, the protocol would need to establish a method for gathering information specific to those accounts that are certified as eligible for energy assistance. This information would include total number of energy assistance eligible accounts, the number of those accounts that are past due, the number that have been issued disconnection notices, the total past due amount owed, the number determined uncollectible and the energy burden of these accounts. A description of the protocol would need to be included in a larger report on LIHEAP that S. 1786 would require HHS to complete and submit to Congress within two years of the legislation’s enactment.

Echoing the HELP Committee report language, the conference report accompanying the FY2004 omnibus spending measure (H.Rept. 108-401) notes that arrearages are a precursor to energy utility disconnections and that an increase in such disconnections is one criteria for the release of emergency funds. Like the HELP committee, the conferees “urge” HHS to consider a significant increase in arrearage rates as part of the disconnection criteria for releasing emergency funds. They also “urge” HHS to make available “regular information on significant, unanticipated changes in home heating and cooling costs” and “quarterly reports on significant variances in regional weather data and fuel prices” to the LIHEAP-authorizing and the appropriations committees and state that “such reports should be provided within 30 days of the end of any fiscal quarter in which LIHEAP contingency funds remain available for obligation.” Finally, should funds be released, the conferees seek a “detailed explanation of the factors used to determine the distribution of funds.” And they also remind HHS that it is “expect[ed]” to “consider the factors identified in the statute when making decisions about the release of funds,” and request that the House

¹⁵ (...continued)

example, if the average temperature on a given day is 55°F then the number of heating degree days for that day is 10. A cooling degree day equals the number of degrees above 65°F in a given day. For example, if the average temperature for the day is 75°F then the number of cooling degree days for that day is 10.

¹⁶ U.S. Congress, Senate Health, Education, Labor and Pensions Committee, *Poverty Reduction Act of 2003*, report to accompany S. 1786, 108th Cong., 2nd Sess., S.Rept. 108-210, p. 15.

and Senate Appropriation Committees receive formal notification in advance of any release of contingency funds.¹⁷

Recent contingency fund appropriations and releases. On February 5, 2004 HHS released all of the \$99.4 million in contingency funds that were appropriated for FY2004. (See discussion above, **FY2004 Funds Released**). There are no additional LIHEAP contingency funds available for release.

The FY2003 funding act (P.L. 108-7) did not include an appropriation of LIHEAP contingency funds. However in January 2003, HHS drew on unspent contingency funds (initially appropriated in FY2001 by P.L. 107-20 and made “available until expended”) to release \$200 million. These funds were distributed to all states and were intended to help defray increased home energy costs for heating. Most of these funds (\$120 million) were distributed using the regular distribution formula. However, a portion (\$80 million) was allotted using a slightly modified formula that targeted the money to states with the largest number of low-income households using oil as their primary heating fuel.¹⁸ For FY2003 Congress also re-categorized (as regular LIHEAP funds) \$100 million in previously appropriated (P.L. 107-20) but still available contingency funds. This money was distributed to all states as part of the FY2003 allotment of regular LIHEAP funds.¹⁹

For FY2002, P.L. 107-116, provided \$300 million in LIHEAP contingency funds that were to remain available for that fiscal year alone. Out of this amount HHS released \$100 million in August 2002 to the 34 jurisdictions whose temperatures between June 23, 2002 and August 3, 2002 were significantly higher than the state’s 30-year average temperature for that time period.²⁰ The remaining \$200 million in appropriated but undistributed FY2002 contingency funds reverted to the federal treasury at the end of the fiscal year. (For a list of contingency funds appropriated and amounts distributed, by year, see **Table 3**, at the end of this report.)

LIHEAP formula. The conference agreement to the Energy Policy Act would require HHS to report to Congress on how LIHEAP “could be used more effectively to prevent loss of life from extreme temperatures”(H. Rpt 108-375, Section 1607). This language was first included in House legislation and, according to the accompanying committee report, would be intended to “assist the [HHS] Secretary in developing a more accurate formula allocation methodology” to better meet the

¹⁷ Current law requires HHS to notify “Congress” and this notification is sent to the LIHEAP authorizing committees, the House Education and Labor Committee and the Senate Health Education, Labor and Pensions Committee.

¹⁸ The list of FY2003 contingency allotment amounts by state is available at [<http://www.hhs.gov/news/press/2003pres/20030124a.html>].

¹⁹ The Senate in January 2003 approved an amendment to the FY2003 appropriations legislation that would have re-categorized the entire \$300 million in then available contingency funds. Several days later the Administration released \$200 million of these unspent funds and the final legislation re-categorized the remaining \$100 million. (See S.Amdt. 27 to H.J.Res. 2 and P.L. 108-7.)

²⁰ A list of FY2002 contingency allotments amounts by state is available at [<http://www.acf.dhhs.gov/programs/liheap/im02-17.htm>].

home energy assistance needs of “vulnerable populations.” Any formula developed, the House committee notes, should use the best statistical data and model now available, be a simple, easy-to-understand science based mechanism that considers state-level expenditures for low-income home heating and cooling needs, and include annually updated, state-level heating and cooling degree day and fuel price information.²¹

The Senate has not yet agreed to vote on the conference agreement to the Energy Policy Act. However, the Senate HELP committee has reported legislation to reauthorize LIHEAP (S. 1786), which would also require HHS to report to Congress on several issues that might be relevant to formula determinations. These include: an analysis of the public health and safety threats of hypothermia and hyperthermia due to lack of home heating or cooling, including morbidity, mortality and decrease in caloric intake; an analysis of the affect of standard of housing and housing age on energy costs to low-income households; and an evaluation of regional differences in cost-of-living and the ability of low-income families to meet home energy requirements.

Finally, the President’s FY2003 budget indicated the Administration’s interest in changing the formula used to distribute LIHEAP funds and, in particular, in “basing the formula on current home energy expenditures paid by low-income households.” However, neither his FY2004 or FY2005 budgets explicitly repeated this interest. As noted earlier in this report, current law provides for this kind of LIHEAP funds distribution but only after regular funds appropriations reach a specific level. Because the regular funds appropriations have not (since FY1986) been high enough to trigger the “new formula” included in current law, funds continue to be distributed based on a static 1981 formula. (For more information see **Funds and Allocation** above.)

Performance measurement. S. 1786 would require HHS to evaluate the performance of LIHEAP with regard to who the program serves, the benefits of the program to recipients, and the ability of the program to reduce utility arrearage and shut-offs among low-income households. Findings of the evaluation would be part of a required report due to Congress within two years of the legislation’s enactment. S. 1786 would also would require the GAO to conduct a new evaluation of the REACH option under LIHEAP.²² The President’s FY2005 budget requests funds (\$500,000) for a national evaluation related to program performance. (See above, **FY2005 President’s Request**).

Current law provides that federal LIHEAP funds should serve low-income households that pay high home energy costs relative to their income and those that include very young, disabled, or elderly individuals. HHS has recently developed performance goals and measures to enable it to quantify state performance. For

²¹ U.S. Congress, House Energy and Commerce Committee, *Energy Policy Act of 2003*, report to accompany H.R. 1644, 108th Congress, 1st sess., H.Rept. 108-65, Part 1, p. 145.

²² In 2001 the GAO released an earlier requested report on the REACH option. U.S. General Accounting Office, *Residential Energy Assistance: Effectiveness of Demonstration Program as Yet Undetermined*, GAO-01-723, Aug. 2001.

FY2004 the performance goals are to increase the percentage of LIHEAP recipient households that have a household member 5 years old or younger or a household member at least 60 years old. Achievement of these goals will be measured using newly developed benefit-targeting indexes and based on a FY2001-FY2002 baseline. (FY2003 performance data are not yet available.) HHS initially intended to develop a performance measure and goal concerning the targeting of LIHEAP benefits to households with high energy burdens but has since dropped this measure due to data concerns.²³

²³ See U.S. Department of Health and Human Services, Administration for Children and Families *FY 2004 Performance Report*, pp. M-138-145. To view this report go to [<http://www.acf.hhs.gov/programs/opre/fy2004performance/fy2004finalplan-section4.pdf>]

Table 3. LIHEAP Funding Trends: FY1982-FY2005
(\$ in thousands)

Fiscal year	Regular funds President's request	Regular funds authorization level ^a	Regular funds appropriation	Contingency funds appropriated	Contingency funds dispersed
1982	\$1,400,000	\$1,875,000	\$1,875,000	—	—
1983	1,300,000	1,875,000	1,975,000	—	—
1984	1,300,000	1,875,000	2,075,000	—	—
1985	1,875,000	2,140,000	2,100,000	—	—
1986	2,097,765	2,275,000	2,100,000	—	—
1987	2,097,642	2,050,000	1,825,000	—	—
1988	1,237,000	2,132,000	1,531,840	—	—
1989	1,187,000	2,218,000	1,383,200	—	—
1990	1,100,000	2,307,000	1,443,000	—	—
1991	1,050,000	2,150,000	1,415,055	195,180	195,180
1992	1,025,000	2,230,000	1,500,000	300,000	0
1993	1,065,000	<i>ssan</i> ^b	1,346,030	595,200	0
1994	1,507,408	<i>ssan</i> ^b	1,437,402	600,000	300,000
1995	1,475,000	2,000,000	1,319,202	600,000	100,000
1996	1,319,204	2,000,000	900,000	180,000	180,000
1997	1,000,000	2,000,000	1,000,000	420,000	215,000
1998	1,000,000	2,000,000	1,000,000	300,000	160,000
1999	1,300,000	2,000,000	1,100,000	300,000	175,299
2000	1,400,000	<i>ssan</i> ^b	1,100,000	900,000	744,350 ^c
2001	1,400,000	<i>ssan</i> ^b	1,400,000	600,000	455,650
2002	1,400,000	2,000,000	1,700,000	300,000	100,000 ^d
2003	1,400,000	2,000,000	1,788,300 ^e	0	200,000 ^f
2004	1,700,000	2,000,000	1,789,380	99,410	99,410
2005	1,800,500 ^g				

Source: Table prepared by the Congressional Research Service (CRS) based on HHS data.

^a Amounts listed are for *regular* funding only. In 1994, Congress enacted a permanent \$600 million annual authorization for contingency funding. Prior to 1994, contingency funds were sometimes available.

^b Such sums as necessary.

^c President Clinton released \$400 million of these FY2000 contingency funds in late Sept. 2000 making it effectively available to states in FY2001.

^d These funds were distributed out of a total of \$300 million in contingency funds that were appropriated in FY2002 (P.L. 107-116). With the end of FY2002, the remaining \$200 million of these FY2002 contingency funds expired.

^e The final FY2003 appropriations act (P.L. 108-7) included \$1.688 billion in new regular funds and converted \$100 million of the contingency funds, originally appropriated in FY2001 (P.L. 107-20), into regular funds.

^f These funds were distributed out of a total of \$300 million in contingency dollars appropriated as part of the FY2001 supplemental (P.L. 107-20). That law provided that the funds were "available until expended." Congress subsequently converted the remaining \$100 million into regular funds available (see tablenote e).

^g Of this amount the President requests that \$500,000 be set aside for a national evaluation.