

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

7 AAC 44. Heating Assistance Programs.



PUBLIC REVIEW DRAFT

August 28, 2017

COMMENT PERIOD ENDS: October 20, 2017

Please see the public notice for details about how to comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

Chapter 44
Heating Assistance Programs

Article 1
Federal Heating Assistance Program

7 AAC 44.040(a)(3) is amended to read:

7 AAC 44.040. Eligibility requirements; income calculations.

(a) A household is eligible to participate in the heating assistance program only if

...

(3) the household's annual [UNSUBSIDIZED] home heating costs exceed \$200;

and

7 AAC 44.040(c) is amended to read:

(c) The department will calculate the household's gross monthly income by counting total cash receipts before taxes, earned and unearned, derived from any source by any member of the household in the calendar month before the date of signature on the completed application.

The department will prorate income from self-employed occupations, [AND] seasonal

employment, **and irregular work schedules** during the 12-month period before the date of signature on the completed application over a 12-month period to determine the household's gross monthly income.

(Eff. 1/24/80, Register 73; am 6/22/80, Register 74; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 3/30/84, Register 89; am 3/24/85, Register 93; am 11/1/89, Register 112; am 12/22/94, Register 132; am 10/1/99, Register 151; am 9/9/2000, Register 155; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am 11/5/2011, Register 200; am 2/20/2014, Register 209 ; am ___/___/___, Register _____)

Authority: AS 47.05.010

7 AAC 44.055(a)(1) is amended to read:

7 AAC 44.055. Subsidized rental housing utility deposit.

(a) The department will award heating assistance for the minimum amount needed to establish natural gas and electric utility service required to participate in subsidized rental housing if

(1) the housing program **fully covers** [WILL FULLY SUBSIDIZE] the household's **annual** home heating costs;

(Eff. 10/1/99, Register 151; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am ___/___/___, Register _____)

Authority: AS 47.05.010

7 AAC 44.060(1) is repealed and readopted to read:

7 AAC 44.060. Vendor agreement.

A vendor must sign an agreement with the department, which includes the following conditions, for the vendor to be a recipient of heating assistance payments in the manner described in 7 AAC 44.050:

(1) the vendor shall apply all heating assistance payments to energy services or deliveries supplied after October 1 of the program year unless the payment is being used to prevent a disconnect of service or to reconnect service to the eligible household;

7 AAC 44.060(5) is amended to read:

(5) if the vendor receives payment under 7 AAC 44.050(a)(2), the vendor shall submit proof to the department that each payment is credited to the household; a refund of any remaining heating assistance must be made to the household or to the department for delivery to the household if

(A) the household closes its account with the vendor; [OR]

(B) the applicant dies and no surviving household member continues to use the account; **or**

(C) a credit has been sitting on the customer's account for more than one year.

(Eff. 1/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 6/30/83, Register 86; am 11/1/89, Register 112; am 12/22/94, Register 132; am 10/1/99, Register 151; am 10/1/2009, Register 191; am ___/___/___, Register _____)

Authority: AS 47.05.010

7 AAC 44.070(3) is amended to read:

7 AAC 44.070. Opportunity for hearing.

An opportunity for a hearing will be granted to an applicant who requests a hearing in writing within 30 days after mailing of the notice described in 7 AAC 44.030(c) and whose

...

(3) amount of heating assistance was modified by the department for a reason other than a change in the benefit rate under 7 AAC 44.080(n) [(m)] or the limitation set by the total heating cost points set in 7 AAC 44.080(o) [(n)] that is a result of year-to-year program changes applying to all applicants.

(Eff. 1/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 6/30/83, Register 86; am 3/30/84, Register 89; am 3/24/85, Register 93; am 11/1/89, Register 112; am 12/22/94, Register 132; am 10/1/99, Register 151; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am 11/5/2011, Register 200; am ___/___/___, Register ___)

Authority: AS 47.05.010

7 AAC 44.080(g) is amended to read:

7 AAC 44.080. Amount of assistance.

(g) The department will multiply the community heating cost points determined under (a) - (f) of this section by the first one of the following factors that describes the household's dwelling. If more than one factor applies, the department will use the factor listed first:

(1) the factor of 1.4 if the household resides in a mobile home or boat with heated living space of 980 square feet or more;

(2) the factor of 0.4 if the household resides in [A TRAVEL TRAILER OR MOBILE HOME LESS THAN 35 FEET IN LENGTH, OR IN A] a recreational vehicle, tent, or pickup camper;

(3) the factor of 0.15 if the household resides in a one-room dwelling such as a studio apartment, hotel, or boarding home;

(4) the factor of 0.35 if the household resides on a boat **with heated living space less than 980 square feet**;

(5) the factor of 0.55 if the household resides in a one-bedroom dwelling, or a one-room house or cabin without bedrooms;

(6) the factor of 1.3 if the household resides in a three-or-more-bedroom single-family, duplex, or triplex home;

(7) the factor of 0.7 if the household resides in a two-bedroom unit in an apartment building of four or more attached units, **or resides in a mobile home with less than 980 square feet of heated living space regardless of the number of bedrooms**;

(8) the factor of 1.0 if the household resides in a two-bedroom single-family home.

7 AAC 44.080(l) is amended to read:

(m) [(l)] Households with heating cost points determined under (a) - **(l)** [(k)] of this section to be less than 2.0 are not eligible.

7 AAC 44.080(m) is amended to read:

(n) [(m)] The department will round the total heating cost points computed in (a) - (l) [(k)] of this section to the nearest whole number and multiply by the benefit rate to determine the amount of the household heating assistance. The department will establish the benefit rate annually based upon

7 AAC 44.080(n) is amended to read:

(o) [(n)] The total heating cost points determined under (n) [(m)] of this section may not exceed 35 points.

7 AAC 44.080(o) is amended to read:

(p) [(o)] If the household meets the conditions set out in this subsection, the department may reduce the amount of heating assistance available under (n) [(m)] and (o) [(n)] of this section by the amount of the unpaid balance that the household owes the department for previously awarded heating assistance to which the household was not entitled. The department will use this method of recoupment of overpayments only if the household has not responded to the department's request for repayment or the household defaults on its repayment agreement.

7 AAC 44.080(p) is amended to read:

(q) [(p)] Notwithstanding (a) - (p) [(o)] of this section, heating assistance is subject to the availability of federal money and any state money that may be appropriated to supplement federal money.

7 AAC 44.080 is amended to add a new subsection to read:

(l) Households residing in any type of subsidized housing who are responsible for paying all or a portion of their heating costs directly to a vendor and who also receive a utility allowance as part of their housing cost calculation shall have their points reduced by 50 percent regardless of the amount of the utility allowance for heat.

(Eff. 1/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 6/30/83, Register 86; am 3/30/84, Register 89; am 3/24/85, Register 93; am 11/1/89, Register 112; am 12/22/94, Register 132; am 10/1/99, Register 151; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am 11/5/2011, Register 200; am ___/___/___, Register _____)

Authority: AS 47.05.010

7 AAC 44.090(a) is amended to read:

7 AAC 44.090. Time frame for assistance payments.

(a) The heating assistance program begins awarding payments under 7 AAC 44.020 on **the first state of Alaska business day in** November [1] of each year.

7 AAC 44.090(b) is amended to read:

(b) Expedited eligibility determination and assistance payment awards under 7 AAC 44.030(d) begin on **the first state of Alaska business day in** November [1] of each year and run through April 30 of the following year.

(Eff. 6/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 6/30/83, Register 86; am 3/30/84, Register 89; am 11/1/89, Register 112; am

12/22/94, Register 132; am 10/1/99, Register 151; am 10/1/2009, Register 191; am ___/___/___, Register _____)

(Eff. 6/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 6/2/82, Register 82; am 6/30/83, Register 86; am 3/30/84, Register 89; am 11/1/89, Register 112; am 12/22/94, Register 132; am 10/1/99, Register 151; am 10/1/2009, Register 191; am ___/___/___, Register _____)

Authority: AS 47.05.010

7 AAC 44.230(a)(3) is amended to read:

7 AAC 44.230. Eligibility requirements; income calculations.

(a) A household is eligible to participate in the heating assistance program only if

...

(3) the household's annual [UNSUBSIDIZED] home heating costs exceed \$200;

and

7 AAC 44.230(c) is amended to read:

(c) The department will calculate the household's gross monthly income by counting total cash receipts before taxes, earned and unearned, derived from any source by any member of the household in the calendar month before the date of signature on the completed application.

The department will prorate income from self-employed occupations, [AND] seasonal employment, **and irregular work schedules during** the 12-month period before the date of signature on the completed application over a 12-month period to determine the household's gross monthly income.

(Eff. 8/12/2008, Register 187; am 11/22/2008, Register 188; am 10/1/2010, Register 195; am 11/5/2011, Register 200; am 2/20/2014, Register 209; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.25.622 AS 47.25.623

7 AAC 44.290(a)(1) is amended to read:

7 AAC 44.290. Subsidized rental housing utility deposit.

(a) The department will award heating assistance for the minimum amount needed to establish natural gas and electric utility service required to participate in subsidized rental housing if

(1) the housing program **fully covers** [WILL FULLY SUBSIDIZE] the household's **annual** home heating costs;

(Eff. 8/12/2008, Register 187; am 11/22/2008, Register 188; am 10/1/2010, Register 195; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.25.622 AS 47.25.623

7 AAC 44.300(1) is repealed and readopted to read:

7 AAC 44.300. Vendor agreement.

A vendor must sign an agreement with the department, which includes the following conditions, for the vendor to be a recipient of heating assistance payments in the manner described in 7 AAC 44.260:

(1) apply all heating assistance payments to energy services or deliveries supplied after October 1 of the program year unless the payment is being used to prevent a disconnect of service or to reconnect service to the eligible household;

7 AAC 44.300(5) is amended to read:

(5) if the vendor receives payment under 7 AAC 44.260(a)(2), the vendor shall submit proof to the department that each payment is credited to the household; a refund of any remaining heating assistance must be made to the household or to the department for delivery to the household if

(A) the household closes its account with the vendor; [OR]

(B) the applicant dies and no surviving household member continues to use the account; **or** [.]

(C) a credit has been sitting on the customer’s account for more than one year.

(Eff. 8/12/2008, Register 187; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.25.622 AS 47.25.623

7 AAC 44.310(3) is amended to read:

7 AAC 44.310. Opportunity for hearing

An opportunity for a hearing will be granted to an applicant who requests a hearing **in writing** within 30 days after mailing of the notice described in 7 AAC 44.220(c) and whose

...

(3) amount of heating assistance was modified by the department for a reason other than a change in the benefit rate under 7 AAC 44.340**(n)** [(m)] or the limitation set by the total heating cost points set in 7 AAC 44.340**(o)** [(n)] that is a result of year-to-year program changes applying to all applicants.

(Eff. 8/12/2008, Register 187; am 11/22/2008, Register 188; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.25.624 AS 47.25.625
AS 47.25.622

7 AAC 44.340(g) is amended to read:

7 AAC 44.340. Amount of assistance.

(g) The department will multiply the community heating cost points determined under (a) - (f) of this section by the first one of the following factors that describes the household's dwelling. If more than one factor applies, the department will use the factor listed first:

(1) the factor of 1.4 if the household resides in a mobile home **or boat** with heated living space of 980 square feet or more;

(2) the factor of 0.4 if the household resides in [A TRAVEL TRAILER OR MOBILE HOME LESS THAN 35 FEET IN LENGTH, OR IN] a recreational vehicle, tent, or pickup camper;

(3) the factor of 0.15 if the household resides in a one-room dwelling such as a studio apartment, hotel, or boarding home;

(4) the factor of 0.35 if the household resides on a boat **with heated living space less than 980 square feet;**

(5) the factor of 0.55 if the household resides in a one-bedroom dwelling, or a one-room house or cabin without bedrooms;

(6) the factor of 1.3 if the household resides in a three-or-more-bedroom single-family, duplex, or triplex home;

(7) the factor of 0.7 if the household resides in a two-bedroom unit in an apartment building of four or more attached units, **or resides in a mobile home with less than 980 square feet of heated living space regardless of the number of bedrooms;**

(8) the factor of 1.0 if the household resides in a two-bedroom single-family home.

7 AAC 44.340(l) is amended to read:

(m) [(l)] Households with heating cost points determined under (a) - (l) [(k)] of this section to be less than 2.0 are not eligible.

7 AAC 44.340(m) is amended to read:

(n) [(m)] The department will round the total heating cost points computed in (a) - (l) [(k)] of this section to the nearest whole number and multiply by the benefit rate to determine the amount of the household heating assistance. The department will establish the benefit rate annually based upon

...

7 AAC 44.340(n) is amended to read:

(o) [(n)] The total heating cost points determined under (n) [(m)] of this section may not exceed 35 points.

7 AAC 44.340(o) is amended to read:

(p) [(o)] If the household meets the conditions set out in this subsection, the department may reduce the amount of heating assistance available under (n) [(m)] and (o) [(n)] of this

section by the amount of the unpaid balance that the household owes the department for previously awarded heating assistance to which the household was not entitled. The department will use this method of recoupment of overpayments only if the household has not responded to the department's request for repayment or the household defaults on its repayment agreement.

7 AAC 44.340(p) is amended to read:

(q) [(p)] Notwithstanding (a) – (p) [(o)] of this section, heating assistance is subject to the availability of state money appropriated each year. If insufficient money is appropriated, each applicant that is a household with a gross monthly income that is no more than 225 percent of the Alaska poverty level will be served on a first-come, first-served basis subject to the availability of money for benefits. If the department determines, after the close of the application period set out in 7 AAC 44.210(c), that available money exceeds the total amount that can be expended, the department may distribute all or part of the surplus on a pro rata basis to households that have been determined eligible to receive assistance under this section.

7 AAC 44.340 is amended by adding a new subsection to read:

(l) Households residing in any type of subsidized housing who are responsible for paying all or a portion of their heating costs directly to a vendor and who also receive a utility allowance as part of their housing cost calculation shall have their points reduced by 50 percent regardless of the amount of the utility allowance for heat.

(Eff. 8/12/2008, Register 187; am 11/22/2008, Register 188; am 10/1/2009, Register 191; am 10/1/2010, Register 195; am 11/5/2011, Register 200; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.25.624 AS 47.25.625

AS 47.25.622

7 AAC 44.350. Time frame for assistance payments.

7 AAC 44.350(a) is amended to read:

7 AAC 44.350. Time frame for assistance payments

(a) The heating assistance program begins awarding payments under 7 AAC 44.210 on **the first state of Alaska business day in** November [1] of each year.

7 AAC 44.350(b) is amended to read:

(b) Expedited eligibility determination and assistance payment awards under 7 AAC 44.220(d) begin on **the first state of Alaska business day in** November [1] of each year and run through April 30 of the following year.

(Eff. 8/12/2008, Register 187; am 11/22/2008, Register 188; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.25.622 AS 47.25.623

Article 3

General Provisions

7 AAC 44.900 is repealed and readopted to read:

7 AAC 44.900. Definitions.

In this chapter, unless the context requires otherwise,

(1) "adult" means an individual 18 years of age or older;

(2) "applicant" means an individual who has submitted to the department an identifiable application for heating assistance for the individual's household and who represents the household;

(3) "Alaska poverty level" means the level set out in the federal poverty guidelines for Alaska established annually by the United States Department of Health and Human Services at 73 Fed. Reg. 3971 - 3972 (January 23, 2008), as amended from time to time, and adopted by reference;

(4) "completed application" means an application, on a form authorized by the department, that contains the applicant's name, mailing and physical address, and signature or witnessed mark, as well as the information requested by the department to determine eligibility;

(5) "department" means the Department of Health and Social Services;

(6) "dwelling" means the physical structure that the household has identified on the heating assistance application as the sole physical structure for which heating assistance is requested;

(7) "emancipated minor" means an individual under 18 years of age who has been declared emancipated by the superior court of this state under AS 09.55.590, or by a court of another jurisdiction under procedures granting the individual the equivalent status;

(8) "fee agent" means a department-paid volunteer who is authorized by the department to assist applicants in completing applications and related forms;

(9) "heating assistance" means financial assistance awarded under this chapter;

(10) "heating assistance season" means the annual period that begins September 1 and runs through April 30 of the following year during which applications for heating assistance are accepted by the department;

(11) "home heating costs" means an amount that the household pays for its own home heating needs either directly, or indirectly through rent;

(12) "household" means an individual or a group of individuals who are living together as one economic unit and for whom residential heating is customarily purchased in common, or who make undesignated payments for heat in the form of rent;

(13) "identifiable application" means a written request for heating assistance under 7 AAC 44.010 - 7 AAC 44.090 or 7 AAC 44.200 - 7 AAC 44.350 that is submitted by an individual who the department is able to clearly identify.

(14) "irregular work schedules" means income from workers who are employed in jobs with a rotating schedule, fluctuating payroll schedules, seasonal layoffs and others careers where income is not consistent on a monthly basis;

(15) "mobile home" means a manufactured home or large house trailer designed for year-round living in one place.

(16) "recreational vehicle" means a motor vehicle or trailer, such as a motor home, equipped with living space and amenities found in a home, such as a bathroom, kitchen and beds, designed to be used for travel.

(17) "seasonal employment" means employment with a regular work season of 11 months or less that is compensated on a salary basis;

(18) "self-employed occupations" means occupations in which an individual receives income from the production or sale of goods or services as determined under 7 AAC 45.445;

(19) "shelter costs" means the total for the household of

(A) the regular monthly rent or mortgage obligation for the shelter that the household occupies;

(B) the cost of 30 days of heating fuel or the amount of the natural gas utility bill;
and

(C) the amount of the electric bill;

(20) "subsidized housing" means housing subsidized by a government, housing authority, or non-profit entity, in which tenants pay only a set portion of their adjusted monthly income for rent or home heat;

(21) "United States citizen" means a citizen of one of the 50 states, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, or a United States national, including a national from American Samoa or Swain's Island;

(22) "vendor" means an individual, business, or private or public agency that sells home heating related energy;

(23) "verification" means documentation or third-party information that establishes the accuracy of statements on the application;

(Eff. 1/24/80, Register 73; am 12/23/80, Register 77; am 5/21/81, Register 78; am 11/1/89, Register 112; am 12/12/94, Register 132; am 10/1/99, Register 151; am 8/12/2008, Register 187; am 11/22/2008, Register 188; am 11/5/2011, Register 200; am 2/20/2014, Register 209; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.25.622