

Basic Requirements for Leveraged Resources and Benefits

Based on the provisions of section 2607A of the LIHEAP statute, § 96.87(d) of the regulation sets basic requirements for leveraged resources and benefits.

Information and Comment on Basic Requirements, Paragraph (1)

In the interim rule, paragraph (1) of § 96.87(d) listed four criteria, all of which had to be met by countable leveraged resources/benefits.

The first two criteria under paragraph (1) implement requirements in section 2607A of the LIHEAP statute. They require that countable leveraged resources/benefits be from non-Federal sources, and be provided to the grantee's LIHEAP program or to federally qualified low-income households. We received no comments on these criteria; they remain the same in the final rule.

In accordance with the LIHEAP statute, leveraged resources that are provided to households that do not meet the Federal eligibility standards in section 2605(b)(2) of the statute cannot be counted under the leveraging incentive program. Federally qualified (federally eligible) low-income households are:

- Households with incomes that do not exceed the greater of 150 percent of the poverty level for their State, or 60 percent of State median income; and
- Households in which one or more individuals receive Aid to Families with Dependent Children, Supplemental Security income payments, food stamps, or certain need-tested veterans' and survivors' payments (payments under sections 415, 521, 541, or 542 of title 38 of the U.S. Code or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978).

If a countable leveraging program/activity provides benefits to both federally eligible households and households that do not meet Federal eligibility standards, the grantee should report only the benefits for households that are federally eligible.

The LIHEAP statute allows grantees to set eligibility standards for their LIHEAP programs that are more restrictive than these Federal maximums. The statute permits grantees to set their LIHEAP programs' income eligibility standard as low as 110 percent of the poverty level. The statute also permits grantees to decide whether to have categorical eligibility for their LIHEAP program and, if so, to decide which of the programs listed above to include. State eligible (State qualified) households are households that meet

the eligibility requirements set by a State for its LIHEAP program. A grantee may claim leveraged resources provided to federally eligible households even if the grantee set lower eligibility standards for its LIHEAP program, provided the resources meet all the other statutory and regulatory requirements.

Criterion (iv) under paragraph (1) implements section 2607A(b)(1) of the LIHEAP statute. Section 2607A(b)(1) states that countable leveraged resources/benefits must "represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates." The interim rule's preamble noted that this language could be interpreted to limit countable leveraged resources to energy credits and fuels purchased at discounted prices—to mean, for example, that a grantee could not count leveraged donated funds used to pay low-income households' actual fuel costs at normal rates, because there would be no net addition to the resources these households could acquire at "commonly available household rates," or that a grantee could not count tangible non-fuel items purchased at discounted prices. We did not adopt this narrow interpretation in the interim rule. In criterion (iv) under paragraph (1) in the interim rule, we clarified the statutory language to state that countable leveraged resources and benefits must "represent a net addition to the total home energy resources available to low-income households in excess of the amount of such resources that could be acquired by these households through the purchase of home energy, or the purchase of items that help these households meet the cost of home energy, at commonly available household rates or costs, or that could be obtained with regular LIHEAP allotments provided under section 2602(b) of Public Law 97-35. . . ."

We received one comment on this regulatory provision. The commenter believed that the provision "is consistent with the overall intent" of the statutory leveraging provisions. We retained the same language in the final rule.

Changes and recommendation

Based on our experience in operating the leveraging program, we added a fifth criterion to § 96.87(d)(1) in the final rule, specifying and clarifying that countable resources/benefits must meet the requirements for leveraged resources

and benefits throughout § 96.87 of these regulations and section 2607A of the LIHEAP statute. This is to assure consistent understanding and prevent confusion about the fact that the criteria in § 96.87(d) are not the only requirements for countable leveraged resources/benefits. We also added the word "basic" to the heading for this section—"Basic requirements for leveraged resources and benefits"—to underscore this point.

The third criterion under § 96.87(d)(1) states that countable resources/benefits must be measurable and quantifiable in dollars. We made no change to this criterion in the final rule. However, based on our experience in operating the leveraging program, we encourage grantees to consolidate similar resources in their leveraging reports, so that each counted resource has a gross dollar value of \$200 or more as determined in accordance with § 96.87(g). Several grantees have included in their leveraging reports separate resources valued at only \$10 or \$20. Disproportionate amounts of time and effort are spent preparing and reviewing information on such small resources. We therefore urge grantees to consolidate similar resources in their leveraging reports, especially resources valued at under \$200, into combined resources valued at \$200 or more. For example, a grantee could combine in-kind donations of space heaters and blankets by different groups and/or individuals, which are separately valued at under \$200, into one resource with a value of \$200 or more. Consolidation of similar resources in the leveraging report is often helpful for larger resources, as well. In almost all cases, grantees will be able to consolidate very small resources into resources valued at \$200 or more.

Information on Basic Requirements, Paragraph (2)

In the interim rule, paragraph (2) of section 96.87(d) listed three additional basic requirements for countable leveraged resources. Countable resources/benefits were required to meet at least one of these three requirements.

Paragraph (2) implements section 2607A(b)(2) of the LIHEAP statute. Section 2607A(b)(2) mandates that leveraged resources/benefits meet at least one of the following three criteria relating to the role of the grantee's LIHEAP program in the development or distribution of the resources/benefits: (1) They "result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive