

households meet the costs of home energy, they generally should be counted in the base period in which these households' homes were weatherized. Pre-weatherization audits—which are countable as an integral part of resulting weatherization—should be counted in the base period in which the weatherization is carried out. This will prevent counting the audits of homes when the follow-up weatherization was not done. However, homes might be weatherized using leveraged funds or volunteer services in one base period and therefore counted in that base period, but the post-weatherization inspections of these homes might take place and be counted in the following base period.

Also, based on our experience in operating the leveraging incentive program, we added a clarification to the final rule at § 96.87(e)(1)(i), naming several specific examples of countable benefits provided by leveraged cash resources: Heating, cooling, and energy crisis assistance payments and cash benefits made in the base period to or on behalf of low-income households toward their home energy costs—including home energy bills, taxes on home energy sales/purchases and services, connection and reconnection fees, application fees, late payment charges, bulk fuel tank rental or purchase costs, and security deposits that are retained for six months or longer.

Also as a clarification, we added language at the beginning of paragraph (2) of § 96.87(e), which describes countable home energy discounts and waivers, stating that countable discounts/waivers must “pertain to generally applicable prices, rates, fees, charges, costs, and/or requirements.” This language applies to all of the subparagraphs under this paragraph. We therefore deleted similar language from subparagraph (ii).

Finally, we added clarifying language specifying that the following are countable: Partial or full waivers of bulk fuel tank rental or purchase costs; and reductions in, and partial or full waivers of, non-Federal taxes on home energy sales/purchases and services (such as furnace repairs) and of other non-Federal taxes provided as tax “credits” to low-income households to offset their home energy costs, unless Federal funds or Federal tax “credits” provide payment or reimbursement of these costs.

As long as a fuel is used wholly or partly for home energy by the low-income recipient household, the full amount of leveraged heating, cooling,

and crisis assistance benefits for the fuel, and the full amount of leveraged discounts and waivers (including arrearage forgiveness) relating to the fuel, are countable, even if they may exceed the home energy portion of the household's bill. It is often difficult or impossible to determine the exact portion of a household's fuel bill that covers home energy—that is, home heating and cooling rather than other residential uses. Also, it is often necessary to pay a household's entire fuel bill—not just the heating and cooling portion—to prevent service shut-off or termination.

Tangible items that are installed or repaired using leveraged services must be items that would be countable if they were leveraged, or must be specifically approved by HHS upon request by the grantee. (For example, donated services to install a washing machine would not be countable, because this appliance, even if it was purchased with non-Federal funds or donated, would not be countable.) However, these items themselves do not have to be leveraged resources. Only the leveraged resource/benefit (for example, leveraged cash used to pay for installation of non-leveraged insulation) is countable in such cases.

We deleted as separate countable resources all services involving delivery and transportation—that is, delivery of fuel, weatherization materials, and other items. We also deleted purchase, rental, donation, and loan of supplies and equipment used to deliver these things and used to install weatherization materials. Therefore, cash resources used to pay for these services and items, discounts in their cost, and in-kind contributions of these services and items are no longer countable as separate resources. (Although delivery services are no longer separately countable, delivery costs sometimes are included in the fair market price of delivered bulk fuel—such as fuel oil, propane, coal, and wood—and as part of the purchase and/or installation costs of weatherization materials and space heating and space cooling devices, equipment, and systems.)

We deleted delivery services, and supplies and equipment used for delivery and installation services, for several reasons, based on our experience with the leveraging program. These services often are not actually direct benefits to specific low-income households. Valuation was a problem. The value of equipment such as trucks that would be used for a number of years and by a number of different users might have been pro-rated for the items' expected useful life and anticipated

other users. However, it would be virtually impossible to get consistent estimates of, and pro-rating for, the useful life of equipment, and accurate pro-rating for other users, even if we issued extensive regulatory instructions. If the entire value of expensive equipment that was to be used over a period of years was counted for only one base period, this would inflate the resource's effect for that base period—and still leave the question of how to account for other users. We also found that several grantees' leveraging reports tried to stretch countable delivery-related services and items beyond the letter and intent of the interim rule—for example, to count a “discount” in the cost of gasoline used in a vehicle that transported fuel oil. Finally, the amount of effort necessary to estimate and document valuation, and to review these calculations and documentation, is disproportionate for such marginal resources.

Comments and Response

Since the end of the comment period on the interim rule, questions have arisen about whether certain types of borrowed funds are countable under the leveraging incentive program. The interim rule said that borrowed funds were not countable. The interim rule's preamble indicated that borrowed funds were not countable because they must be repaid, and therefore there is no net addition to households' home energy resources. This is the case if a low-income household borrows funds, uses these funds to pay a home energy bill or weatherize its home, etc., and then repays the loan with its own funds. It is also the case if, for example, a grantee borrows funds, uses these funds to pay home energy bills or weatherize homes, etc., and then repays the loan with Federal LIHEAP funds.

In general, benefits or services paid for with borrowed funds and interest on those funds are not countable under the leveraging incentive program. We clarified in the final rule that this prohibition also applies to loans made to low-income households to help them pay their home energy costs, including weatherization, and to loans made by low-income households.

However, we now recognize that borrowed or repaid funds from certain revolving loan funds and similar loan arrangements can be countable. We revised the final rule accordingly, at §§ 96.87(b)(3) and 96.87(f)(2). The final rule defines “countable loan fund” in § 96.87(b)(3) as follows:

Countable loan fund means revolving loan funds and similar loan instruments in which: