

**CHAPTER 55-20
LOW INCOME FAMILY ENERGY
ASSISTANCE PROGRAM**

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TITLE 55: DEPARTMENT OF COMMUNITY AND CULTURAL AFFAIRS

Penalties

**Exhibit A Low Income Families
Electrical Energy Assistance Monthly
Benefits**

Chapter Authority: 1 CMC § 2353(a); 1 CMC § 2354.

Chapter History: Amdts Adopted 36 Com. Reg. 34935 (Apr. 28, 2014); Amdts Proposed 36 Com. Reg. 34774 (Feb. 28, 2014); Amdts Proposed 13 Com. Reg. 7633 (Feb. 15, 1991);* Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

*A notice of adoption for the February 1991 proposed amendments was never published.

Commission Comment: 1 CMC § 2351 creates the Department of Community and Cultural Affairs (DCCA). The Department has certain duties enumerated in 1 CMC § 2353, including responsibility for social services funded in whole or in part by federal funds. See 1 CMC § 2353(a). 1 CMC § 2354 directs DCCA to adopt rules and regulations regarding activities over which the Department has jurisdiction.

For a complete history of the authority of DCCA, see the general comment to chapter 55-10.

The notice of adoption for the February 1991 amendments stated: "The Department of Community and Cultural Affairs, Commonwealth of the Northern Mariana Islands hereby notifies the general public of the adoption of the amendments for the Low Income Family Energy Assistance Program published in the Commonwealth Register Volume 12, No. 11, November 15, 1990. These amendments are to extend the dateline for submission of electrical utility bills to the CCA Program manager and to adjust the countable income in the determination of eligibility." See 13 Com. Reg. at 7653 (Feb. 15, 1991). The referenced 1990 publication does not exist. Substantial proposed amendments were published on October 15, 1990 in volume 12, number 10, at pages 7415-7425. These amendments have been incorporated into this chapter as the intent to adopt is evident from the February 1991 adoption notice.

In 2006, DCCA adopted emergency regulations amending Exhibit A of this chapter and gave notice of its intent to adopt them as permanent. See 28 Com. Reg. 25636 (May 19, 2006). As of this date, no notice of adoption has been published.

Part 001 - General Provisions

§ 55-20-001 Purpose

The Commonwealth government has determined that it is necessary and appropriate to provide assistance to low income families for essential electrical power needs. The assistance program is based on the power of the government to protect the health and safety of the people. The rules and regulations in this chapter have been promulgated under Public Law 6-19 and Public Law 3-68.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: Public Law 6-19 (effective Apr. 17, 1989) was the "Commonwealth Appropriations and Budget Authority Act of 1989." Public Law 3-68 (effective Aug. 16, 1983) was the "Planning and Budgeting Act of 1983."

Part 100 - Program Implementation

§ 55-20-101 Household Responsible for Utilities

The household (family) is responsible to pay for its utilities charges as billed. The low income family assistance is a privilege provided by the CNMI government. In order to receive the privilege the burden of meeting the program requirements is a primary responsibility of the household (family).

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The commission created the section titles in part 100.

§ 55-20-105 Grandfather Provision

There is no grandfather provision for any program in this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-110 Amounts Due Reconciled

All potential participating families must reconcile or pay in full any amount due for all utilities prior to being qualified for assistance under this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-115 Administration

The program will be administrated by the Department of Community and Cultural Affairs.

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-120 Eligibility

The program is available to all United States of America/CNMI citizens, nationals domiciled in the Commonwealth, and permanent residents (under the laws of the Commonwealth) domiciled in the Commonwealth, subject to the income, liquid resources, and family size provisions of this chapter. No aliens other than those described above shall be eligible to participate in the program as members of any household. Among those excluded are alien visitors, tourists, contract laborers, and diplomats who enter the CNMI temporarily with no intention of abandoning their residences in a foreign country.

Modified, 1 CMC § 3806(d), (f).

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History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The Commission inserted commas after the words “Commonwealth” and “resources” pursuant to 1 CMC § 3806(g).

§ 55-20-125 Applicant Must Be Head of Household

The low income family assistance applicant must be the head of the household and also the person who is applying for electrical service from the Commonwealth Utilities Corporation as owner of the housing unit identified by a CUC account number. In the event the low income family assistance head of the household is leasing and/or renting the housing unit and the electrical meter is in the name of the property owners, the applicant must obtain a written statement as to the terms and condition of the rent or lease signed and acknowledged by the house unit owner.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-130 Presentation of Bill

To promote conservation of energy and to assure prompt and timely payments of electrical service bills, the qualified participant must present his/her electrical utility bill to the DCCA program manager on or before the 10th day of the following month after billing date. The program manager will credit the participant's bill by attaching an authorized receipt displaying (assistance) credit to the utility bill. The participant is required to promptly pay the balance due (for overage) in full directly to the main billing office of CUC or any of its authorized outlets.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The commission changed “CCA” to “DCCA” to correct a manifest error.

The 1991 amendments deleted and readopted this section in its entirety. The 1991 amendments contained an authority provision as follows:

Part I. Authority

A. Authority: Under and by virtue of the authority provided in 1 CMC 2353(a), the Director, Department of Community and Cultural Affairs hereby proposes the following amendments to the Low Income Family Energy Assistance Program Rules and Regulations.

12 Com. Reg. at 7415 (Oct. 15, 1990).

The notice of adoption for the 1991 amendments stated: “The Department of Community and Cultural Affairs, Commonwealth of the Northern Mariana Islands hereby notifies the general public of the adoption of the amendments for the Low Income Family Energy Assistance Program published in the Commonwealth Register Volume 12, No. 11, November 15, 1990. These amendments are to extend the dateline for submission of electrical utility bills to the CCA Program manager and to adjust the countable income in the determination of eligibility.” See 13 Com. Reg. at 7653 (Feb. 15, 1991). The referenced 1990 publication does not exist. Substantial proposed amendments were published on October 15, 1990 in volume 12, number 10, at pages 7415-7425. These amendments

have been incorporated into this chapter as the intent to adopt is evident from the 1991 adoption notice.

§ 55-20-135 Failure to Pay Balance Due

In the event the participant fails to pay the balance due and the amount is carried forward to the subsequent month's billing this will automatically disqualify the entire household for the newly billed month and subsequent months until the participant (household) reapplies and is requalified under the conditions of this chapter. In no event will unpaid balances be allowed to be carried forward or in any manner be adjusted except by the appeal process established by this chapter. Further no assistance credit will be given during the time an "unpaid balance due" appeal is being conducted.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-140 Unused Assistance Credit

Unused assistance credit cannot be carried forward.

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-145 Program Subject to Funding

This program is subject to annual appropriation for funds. In the event the CNMI Legislature fails to appropriate or appropriates insufficient funds the participants are responsible for their entire electrical usage beyond those funds appropriated for such assistance.

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-150 Other Assistance

Any person or family receiving assistance toward partial or full payment of electrical service cost from any other program funded with CNMI, federal, or any other funding source is disqualified from participating in this program. Further, in the event a single member and/or several members of a family are receiving assistance from any other source(s) will disqualify the entire family.* Example: HUD section 8 housing as administered by the Marianas Islands Housing Authority or other HUD section 8 housing program administered by a private sector investor(s) within the Commonwealth. CNMI Public Law 1-22.

*So in original.

Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The Marianas Islands Housing Authority was abolished and replaced by the Northern Marianas Housing Corporation pursuant to Executive Order 94-2, 16 Com. Reg. 11924 (June 15, 1994).

§ 55-20-155 Household

The term “household” means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who makes undesignated payments for energy in the form of rent.

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-160 Proration Not Allowed

This chapter is subject to those rate structure provisions as applicable and enforceable by the Commonwealth Utility Corporation, specifically in the case where a portion of a building is used as an income producing business venture including multifamily housing units, and the balance of the building is used as living quarters. In order for the family to be qualified the business portion of the building must be metered separately from the living quarters which must also be metered. Prorations in any manner will not be allowed.

Modified, 1 CMC § 3806(d).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The Commission corrected the phrase “a income producing business” to “an income producing business” pursuant to 1 CMC § 3806(g).

§ 55-20-165 Disconnection

Families who have failed to promptly pay their utility charges will be subject to the disconnection of service as provided for in the published regulations of the Commonwealth Utilities Corporation.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The commission changed “Corp.” to “Corporation” to correct a manifest error.

Part 200 - Income

§ 55-20-201 Introduction

(a) The CNMI government requires that households applying for energy assistance meet income guidelines in order to be eligible for a payment.

(b) There are four major factors to consider in defining income. These are:

- (1) What will be counted in the base income;
- (2) What will not be counted as income (excluded);
- (3) What will be subtracted from income (deducted); and
- (4) What time period will be used for counting income.

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Modified, 1 CMC § 3806(f).

History: Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: This section was originally the introduction to part III (now part 200). See 11 Com. Reg. at 6612 (Nov. 15, 1989). The commission designated it § 55-20-201 and created the section title.

The original paragraphs were not designated. The commission designated subsections (a) and (b).

§ 55-20-205 Base Income

(a) Base income is defined as the gross countable income of all persons living in the households. For wages or salaries, this means income before taxes or other deductions. Income countable in the determination of eligibility are:

Wages/salaries	Social Security
Commissions	Other pensions
Employment bonuses	Child support
Lease money	Alimony
Veterans pension	Inheritances (money)
Savings/checking	Interest & dividends from savings & investment

(b) Income from self-employment such as ranching, farming, or owner/operator business is an exception to the rule on gross income. An adjusted figure taken from the CNMI tax form 1040, is the simplest way of obtaining this information on income for self employment. Losses from self-employment will not be used to offset income from other sources. In such case, it would not be used in the income calculation.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b). The Commission inserted a comma after the word “farming” in subsection (b) pursuant to 1 CMC § 3806(g).

The 1991 amendments deleted and readopted this section in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-210 Excluded Income (Income Which Is Not Counted)

(a) Assistance provided through certain federal programs cannot be counted as income. The federal laws for these programs require that income from these sources be excluded.

- (1) Value of food coupons (Food Stamps), Public Law 95-113
- (2) Value of food commodities, Public Law 74-320

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- (3) Wages, allowances, or reimbursement for transportation and attendant care costs under Title VI of the Rehabilitation Act of 1973, Title II, Public Law 95-602
 - (4) Supplemental food program for women, infants, and children (WIC), Public Law 94-105
 - (5) National School Lunch Program, Public Law 90-302
 - (6) Grants or loans to undergraduate students made or insured under programs administered by the College of the Northern Marianas and Secretary of Education under section 507 of the Higher Education Amendments of 1968, Public Law 90-575, such as a Basic Education Opportunity Grant, Supplemental Education Opportunity Grant, State Student Incentive Grant, National Direct Student Loan or a Guaranteed Student Loan.
- (b) Cash over which the household has no control usually includes:
- (1) Reimbursement for expenses incurred in connection with employment such as travel, mileage and per diem reimbursement
 - (2) Reimbursements for medical expenses
 - (3) Payments made by others on behalf of the household as long as payments were not directed or requested by the household, such as assistance provided in an emergency or mortgage payments directed by the court in a divorce decree.
- (c) Cash which is administratively difficult to consider, compute, and verify. Some examples are:
- (1) Small or irregular contributions from friends or relatives. "Irregular" is defined to mean income that arrives at unscheduled intervals.
 - (2) Small or irregular income from the sale of craft items, hobbies, rummage sales, and odd jobs.
- (d) Loans from private individuals or commercial institutions if the household must repay the loan.
- (e) Money received from a one-time lump sum payment, such as:
- (1) Income tax refunds
 - (2) Insurance settlements
 - (3) Prizes won from legalized games such as bingo, cockfights, poker machines, etc.
- (f) Foster care payments.
- (g) Trips.
- (h) Sick leave pay.
- (i) Disability pay.
- (j) Some per capita payments.
- (k) Supplemental security income.
- (l) General assistance.

- (m) Railroad retirement.
- (n) Workmen's compensation.
- (o) Unemployment compensation.
- (p) Union compensation during strikes.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The first paragraph was not designated. The commission designated it subsection (a) and redesignated the remaining subsections (b) through (p) accordingly. The paragraphs of subsections (b), (c) and (e) were not designated. The commission designated subsections (b)(1) through (b)(3), (c)(1) and (c)(2) and (e)(1) through (e)(3).

The 1991 amendments added new subsections (g) through (p). See also the commission comment to § 55-20-130.

In subsections (b)(3), (d) and (f) through (p), the commission inserted the final periods.

Part 300 - Resource Eligibility Standards

§ 55-20-301 Resource Eligibility Standards

(a) Program applicants shall be subject to maximum resource eligibility standards as specified below:

- (1) Household of one and household which do not contain a member age 55 or older - \$2000.00
- (2) Households of two or more members one or more of whom are age 55 or older - \$3000.00

(b) If determining resource levels, the term "resource" shall be limited to cash on hand money in demand or savings accounts, savings certificates, stocks, bonds, and other readily negotiable certificates and instruments.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) and (b).

The 1991 amendments added a new section IV (now part 300) and redesignated and readopted the remaining parts accordingly. See also the commission comment to § 55-20-130.

Part 400 - Verifications

§ 55-20-401 Introduction

Verification is the use of documentation, third party information, or home visits, to establish the accuracy of statements on the application in order to determine the eligibility or ineligibility of the household.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: This section was originally the introduction to part V (now part 400). See 12 Com. Reg. at 7416 (Oct. 15, 1990). The commission designated it § 55-20-401 and created the section title.

The 1991 amendments deleted and readopted part 400 in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-405 Mandatory Verification

(a) Gross income shall be verified for all households prior to certification except where all attempts to verify income have been unsuccessful either because the person or organization providing the income has failed to cooperate with the household and the program manager or because other sources of verification are unavailable. In such cases, the eligibility worker shall determine income or resource amounts to be used for certification purposes based on the best available information.

(b) Household composition and citizenship status shall also be verified prior to certification of the household by requiring the applicant to submit birth certificates for each household member.

(c) Social Security numbers shall also be verified prior to certification of the household. At the initial certification, the applicant shall be required to present a Social Security card for each household member 5 years of age and older. Members added to the household during subsequent recertification shall be required to present a Social Security card. Likewise, members leaving the family will have their Social Security number removed.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part 400 in its entirety. See also the commission comment to § 55-20-130. The Commission corrected the capitalization of “Social Security” pursuant to 1 CMC § 3806(f).

§ 55-20-410 Verification of Questionable Information

Eligibility criteria other than income, resources, household size, residency, and citizenship status shall be verified prior to certification only if they are questionable. To be considered questionable, the information on the application must be consistent* with statements by the applicant or inconsistent with other information received by the program manager.

*So in original; see the commission comment to this section.

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History: Amdts Proposed 13 Com. Reg. 7633 (Feb. 15, 1991); Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The February 1991 amendments deleted and readopted part 400 in its entirety. See also the commission comment to § 55-20-130.

The starred word probably should be “inconsistent.” Compare 11 Com. Reg. at 6614 (Nov. 15, 1989) and 12 Com. Reg. at 7417 (Oct. 15, 1990); see also 13 Com. Reg. at 7636 (Feb. 15, 1991) (proposing to change “consistent” back to “inconsistent”).

A notice of adoption for the February 1991 proposed amendments was never published and, therefore, the commission has not incorporated the proposed changes.

§ 55-20-415 Responsibility for Obtaining Verification

The household has primary responsibility for providing documentary evidence or an acceptable collateral contact to support its income statements and to resolve any questionable information. However, the program manager may accept any reasonable evidence provided by the household and shall be primarily concerned with how adequate the verification proves the statements on the application.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part 400 in its entirety. See also the commission comment to § 55-20-130.

Part 500 - Documentation; Processing Standards; Re-certification

§ 55-20-501 Documentation

Case files must be documented to support a determination of eligibility or denial. Documentation shall consist of sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. The program manager shall make an entry on the contact sheet to document communication with the household, whether by phone, correspondence, or face contact.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part VI (now § 55-20-501) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-505 Processing Standards

The program manager shall process all applications so that eligibility is determined and benefits provided within thirty days following receipt of a signed application. An application is filed the day the Department of Community and Cultural Affairs receives an application which contains

the applicant's name and address and which is signed by the head of the household.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part VII (now § 55-20-505) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-510 Re-certification

Further eligibility shall be established only upon recertification based upon a newly completed application, an interview, and verification as required herein. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. At recertification, the program manager shall verify changes in income or household composition. All other changes reported at the time of recertification shall be subject to the same verification procedures used at the initial certification.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part VIII (now § 55-20-510) in its entirety. See also the commission comment to § 55-20-130.

Part 600 - Determining Household Eligibility and Benefit Levels

§ 55-20-601 Month of Application

(a) The eligibility and benefits for most households submitting an initial application shall be based on circumstances for the entire calendar month in which the household filed its application. A household's eligibility and benefit level shall be determined for the month of application by considering the household's circumstances for the entire month.

(b) Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is not received until after the current recertification period has expired, the month of application shall be the month in which the application was filed, as for any initial application.

(c) Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application but eligible in the subsequent month due to anticipated changes in circumstances. To establish eligibility for the subsequent month, the household must file a new application.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part IX (now part 600) in its entirety. See also the commission comment to § 55-20-130.

The commission changed “anticipate” to “anticipated” to correct a manifest error.

§ 55-20-605 Determining Income

(a) Anticipating income. For the purpose of determining the household’s eligibility and level of benefits, the program manager shall take into account the income already received by the household during the certification period and any anticipated income the household and program manager are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received or when it will be received is uncertain, that portion of the household’s income that is uncertain shall not be counted by the program manager. For example, job or recently applied-for public assistance benefits may be uncertain as to the timing and amount of the initial payment. These payments shall not be anticipated by the program manager unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the program manager may elect to average income.

(b) Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the program manager shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the program manager and the household may use longer prior period (at least two months but preferably three months) if it will provide a more accurate indication of anticipated fluctuations in future income. In such cases the program manager shall use pay documents (pay stubs, check stubs, pay slips) which indicate the actual income to the household from the three most recent pay periods prior to the household’s application or recertification. The program manager shall average the actual amounts indicated on the pay documents and convert the averaged amount to a monthly income figure (if the pay periods documented are more frequent than monthly, i.e., weekly or biweekly). Similarly, if the household’s income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The program manager shall exercise caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the program manager automatically attribute to the household the amounts of any past income.

(c) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month’s income is anticipated but is received on a weekly or biweekly basis, the program manager shall convert the income to a monthly income by multiplying weekly amounts by 4.33 and biweekly amounts by 2.15, or use the exact monthly figure if it can be anticipated for each month of the

certification period. Nonrecurring lump-sum payments shall not be counted as income.

(d) Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received only if reasonably anticipated as defined herein.

(e) Households receiving assistance payments such as SSI benefits or Social Security payments on a recurring monthly basis shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

(f) The program manager may elect to have an applicant's income averaged. To average income, the program manager shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of income fluctuations anticipated for the coming months, the income from the three known months may be averaged and projected over a certification period of longer than three months.

(g) Households which, by contract or self-employment, derive their annual income in a period of time shorter than one year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piece-work basis. These households may include school employees, fishermen, farmers, and other self-employed households.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part IX (now part 600) in its entirety. See also the commission comment to § 55-20-130. The Commission corrected the capitalization of "Social Security" in subsection (e) pursuant to 1 CMC § 3806(f).

§ 55-20-610 Calculating Income and Benefit Levels

(a) To determine a household's monthly gross income, the program manager shall add the monthly gross income earned by all household members and all unearned income from all sources. Round the product* up if it ends in 50 through 99 cents and down if it ends in 1 through 49 cents.

(b) The total gross monthly income shall be compared to the income eligibility standard for the appropriate household size to determine the household's eligibility.

* So in original.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990);

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Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part IX (now part 600) in its entirety. See also the commission comment to § 55-20-130.

Part 700 - Reporting Changes

§ 55-20-701 Household Responsibility to Report

Certified households are required to report the following changes in circumstances:

- (a) Changes in the sources of income or in the amount of gross monthly income;
- (b) All changes in household composition such as the addition or loss of a household member;
- (c) Changes in residence.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part X (now part 700) in its entirety. See also the commission comment to § 55-20-130.

In subsection (c), the commission changed the final semi-colon to a period.

§ 55-20-705 Reporting

The program manager shall require each certified household to report changes within 10 days of the date the change becomes known to the household. Reports of changes may be done orally or in writing. In either case, the program manager shall document any reported changes on the contact sheet. If written, the document shall be filed with the current application form.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part X (now part 700) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-710 Action on Changes

The program manager shall take prompt action (within three working days) on all changes to determine if the change affects the household's eligibility or assistance level.

- (a) Increase in benefits.
 - (1) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household or due to a decrease

in the household's gross income, the program manager shall make the change effective the month following in which the change is reported provided the required verification is completed prior to the start of that month following the month in which the change is reported.

(2) Required verification must be obtained prior to the issuance of the monthly benefit after the change is reported. Until the household provides verification, the household's benefits will remain at the original benefit level. In cases where the program manager has determined that a household has refused to cooperate to verify reported changes, the program manager shall terminate the household's eligibility.

(b) Decreases in benefits. If the household's benefits level decreases or the household becomes ineligible as a result of the change, the program manager shall issue a notice of adverse action within 10 days of the date the change was reported. The notice of adverse action shall provide the household 10 days to contest the adverse action. If the household does not respond within the 10 days notice given, the decrease in benefit levels shall take effect at the next scheduled issuance of benefits.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part X (now part 700) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-715 Failure to Report

If the program manager discovers that the household failed to report a change as required and, as a result, received benefits to which it was not entitled, the program manager shall file a claim against the household. If the discovery is made within the certification period, the household is entitled to a 10 days notice of adverse action if the household's benefits are to be reduced or terminated.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part X (now part 700) in its entirety. See also the commission comment to § 55-20-130. The Commission corrected "days notice" to "days notice" pursuant to 1 CMC § 3806(g).

Part 800 - Treatment of Income of Disqualified Members and Aliens

§ 55-20-801 Introduction

Individual household members may be disqualified for fraud or for failure to meet the work registration requirement or the household may include ineligible members. During the period of time a household member is disqualified or as long as an ineligible alien is included in the household the eligibility and benefit level of any remaining household members shall be determined as set forth in this part.

Modified, 1 CMC § 3806(g).

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History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: This section was originally the introductory sentence to part XI (now part 800). The commission designated it § 55-20-801, created the section title, and changed the language slightly to accommodate the change. See 12 Com. Reg. at 7423 (Oct. 15, 1990).

The 1991 amendments deleted and readopted part XI (now part 800) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-805 Income

A pro-rata share of the income of the disqualified member and/or the alien(s) shall be counted as income to the remaining members. This pro-rata share is calculated by dividing the income evenly among the household members, including the disqualified member or the alien(s). All but the disqualified member or the alien's share is counted as income to the remaining household members.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part XI (now part 800) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-810 Eligibility and Benefit Level

The disqualified member or alien shall not be included when determining the household's size for purpose of assigning a benefit level to the household or for purposes of comparing the household's monthly gross income with the eligibility standards.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part XI (now part 800) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-815 Reduction or Termination of Benefits Within the Certification Period

Whenever an individual is disqualified within the household's certification period, the program manager shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the casefile and provide appropriate notice of adverse action to the household.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part XI (now part 800) in its entirety. See also the commission comment to § 55-20-130.

Part 900 - Fair Hearing

§ 55-20-901 Notification of Right to Request a Fair Hearing

At the time of application, each household or its authorized representative shall be informed of its right to request a departmental conference or a fair hearing and the method by which they are requested on any action the program manager takes which affects the household's level of benefits. The household or its authorized representative shall also be informed that program violations will be pursued by the program manager and of the penalties for program violations. The household or its authorized representative shall be further advised that a departmental conference or hearing does not preclude additional prosecutions in civil or criminal court.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The 1991 amendments deleted and readopted part XII (now part 900) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-905 Time Period for Requesting a Hearing

A departmental conference or a fair hearing may be requested on any action by the program manager which occurred in the prior 60 days and which affects the household's benefits.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-910 Request for Departmental Conference or Fair Hearing

A request for a departmental conference or fair hearing is any clear expression, oral or written, by a household or its authorized representative to the program manager that it wished to present its case to a higher authority. The freedom to make such a request shall not be limited or interfered with in any way. Upon request, the program manager shall make available the rules for a departmental conference or hearing procedures and other materials necessary for a household or its authorized representative to determine whether a departmental agency conference or hearing should be requested and to prepare for the departmental conference or hearing.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: In the final sentence, the commission deleted a period after "requested."

§ 55-20-915 Timely Action on Hearings

Within sixty days of the receipt of a request for a hearing from a household or its authorized

representative, the program manager shall schedule a hearing, inform the household in writing of the hearing date, conduct a hearing and arrive at a decision and notify the household of the decision.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

§ 55-20-920 Postponement or Alternative Hearing Option

The household or its authorized representative may request, for good cause, a postponement of a scheduled hearing. The postponement shall not exceed 30 days, and the time limit for action on the decision may be extended for as many days as the hearing is postponed.

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Part 1000 - Monthly Benefits

§ 55-20-1001 Monthly Benefits

- (a) The monthly benefits for all qualified participating households are displayed in the attached exhibit “A” and are a portion of this chapter.
- (b) The benefits have been established based on the present rate structure of eleven cents per kilowatt hour for residential consumers.
- (c) The monthly benefits and/or qualifying provisions of this chapter and, the benefit schedule reflecting an implemented change in the residential consumer electrical energy rate per kilowatt hour may be changed by the Director, and only when funds are available.

Modified, 1 CMC § 3806(d), (e), (f)

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The original paragraphs were not designated. The commission designated subsections (a) through (c).

The 1991 amendments deleted and readopted part XIII (now part 1000) in its entirety. See also the commission comment to § 55-20-130.

Part 1100 - Fraud Disqualification

§ 55-20-1101 Definition of Fraud

Fraud shall consist of any action by an individual to knowingly and intentionally:

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(a) Make a false statement to DCCA or its staff, either orally or in writing, to obtain benefits to which the household is not entitled; or

(b) Conceal information to obtain benefits to which the household is not entitled.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: In subsection (a), the commission changed “CCA” to “DCCA” and corrected the spelling of “either” to correct manifest errors.

The 1991 amendments deleted and readopted part XIV (now part 1100) in its entirety. See also the commission comment to § 55-20-130.

§ 55-20-1105 Fraud Disqualification Penalties

Individuals found to have committed fraud shall be ineligible to participate in the program for at least 3 months but not more than one year. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 13 Com. Reg. 7653 (Feb. 15, 1991); Amdts Proposed 12 Com. Reg. 7415 (Oct. 15, 1990); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The commission corrected the spelling of “jurisdiction.”

Exhibit A

Low Income Families Electrical Energy Assistance Monthly Benefits

MONTHLY BENEFITS SCHEDULE

Household Size	1	2	3	4	5	6	7	8	9	10	11+
Monthly Income											
0-1053	\$32	\$41	\$48	\$54	\$60	\$65	\$69	\$74	\$78	\$83	\$87
1054-1422	0	\$32	\$41	\$48	\$54	\$60	\$65	\$69	\$74	\$78	\$83
1423-1790	0	0	\$32	\$41	\$48	\$54	\$60	\$65	\$69	\$74	\$78
1791-2159	0	0	0	\$32	\$41	\$48	\$54	\$60	\$65	\$69	\$74
2160-2527	0	0	0	0	\$32	\$41	\$48	\$54	\$60	\$65	\$69
2528-2896	0	0	0	0	0	\$32	\$41	\$48	\$54	\$60	\$65
2897-3264	0	0	0	0	0	0	\$32	\$41	\$48	\$54	\$60
3265-3633	0	0	0	0	0	0	0	\$32	\$41	\$48	\$54

At 110% OF HHS POVERTY GUIDELINES

History: Amdts Adopted 36 Com. Reg. 34935 (Apr. 28, 2014); Amdts Proposed 36 Com. Reg. 34774 (Feb. 28, 2014); Amdts Proposed 13 Com. Reg. 7633 (Feb. 15, 1991); Adopted 12 Com. Reg. 6854 (Mar. 15, 1990); Proposed 11 Com. Reg. 6607 (Nov. 15, 1989).

Commission Comment: The February 1991 amendments proposed to delete exhibit A of section XIII (now part 1000) in its entirety and readopt a new amended exhibit A. A notice of adoption was never published for the February 1991 proposed amendments and, therefore, the commission has not incorporated the new exhibit A.

In 2006, DCCA adopted emergency regulations amending Exhibit A of this chapter and gave notice of its intent to adopt them as permanent. See 28 Com. Reg. 25636 (May 19, 2006). As of this date, no notice of adoption has been published.