

Par.1. **Material Transmitted and Purpose** – Transmitted with this Manual Letter are changes to Service Chapter 415, Low Income Home Energy Assistance Program. This manual letter also incorporates changes made with:

- IM 5192 Standardized Self-Employment Policy
- AMENDED IM 5192 Standardized Self-Employment Policy

### **LIHEAP General Provisions 415-05**

1. 415-05-01 – Authority Reference. Removed reference to repealed ND Century Code and renumbered.

#### **Authority Reference 415-05-01**

1. Public Law 97-35, Title XXVI
  2. ~~Section 50-01-09 (North Dakota Century Code)~~
  2. Section 50-06-05.1 (North Dakota Century Code)
2. 415-05-05 – Definitions. Added definitions of energy crisis and life-threatening energy crisis. Clarification of housing unit definition.

#### **Definitions 415-05-05**

##### **Energy Crisis**

Weather-related and supply shortage emergencies and other household energy-related emergencies.

##### **Housing Unit (Living Unit)**

This term refers to one or more rooms occupied as a separate living quarter in a residential dwelling except: that is designed to be used as a permanent residence. The following are **NOT** considered housing units (living units):

- a. Housing units owned or operated by educational and/or other institutions which perform an educational or other service for the residents are excluded if the heating costs are obligated, guaranteed, or in any way the responsibility, directly or

- indirectly, of the institution, or are integrated in any way with the educational or other service costs.
- b. Dormitories, residential treatment or rehabilitation centers, teaching/training centers, transitional living centers, hospitals, nursing homes, retirement or rest homes, homeless shelters, hospice care facilities, communes, or other forms of congregate living arrangements ~~are excluded~~.
  - c. Temporary transient living units in hotels, motels, or other commercial dwellings ~~are excluded~~.
  - d. Non-traditional dwellings or structures not affixed to a permanent physical address, such as campers, recreational vehicles (RVs), railroad cars, vans, cars, buses, tents, or fishing houses.

### **Life-threatening Energy Crisis**

Energy-related crisis that poses a serious threat to the health or safety of one or more members of the household.

3. 415-05-20 – Right to Appeal and Fair Hearing. Removed redundant policy.

### **Right to Appeal and Fair Hearing 415-05-20**

If a household believes the decision made on their **Heating Assistance** or **Emergency Assistance** application may be wrong, or if they do not receive a written notice of the action taken on your Heating Assistance application within 45 days from the date their application is received, they should **first** contact their county social service office to be sure they have all the information they need to correctly determine your eligibility.

If the household still believes the decision is wrong for some reason, they are entitled to request a hearing before the North Dakota Department of Human Services.

Contact the county social service office for instructions on how to request a hearing. The household's request for a hearing must be received within 30 days of the date of the notice of action. The

household can have an attorney, relative, friend or other person assist them at the hearing.

If a household's hearing request is received within that time, their benefits will not be changed until a decision is reached. However, the household will be required to pay back any excess benefits received if the appeal is not successful.

A hearing officer will contact the household to arrange a hearing time and place that is convenient for them.

The household will receive a written decision from the North Dakota Department of Human Services.

#### Nondiscrimination

~~The household has the right to file a written complaint if they believe they have been discriminated against because of race, color, religion, national origin, age, gender, disability or status with respect to marriage or public assistance. The written complaint may be filed with the county social service office; the North Dakota Department of Human Services Office for Civil Rights, 600 E Boulevard Ave., Dept. 325, Bismarck, ND 58505; or the Office of Civil Rights, Department of Health and Human Services, Federal Office Building, 1961 Stout St., Denver, CO 80294.~~

4. 415-05-30 – Right to Non-Discrimination. Clarified policy regarding the applicant's receipt of non-discrimination information at time of initial application. SFN 143 will no longer need to be distributed with the LIHEAP application. Information from the SFN 143, "North Dakota Department of Human Services, Your Civil Rights" has been incorporated into the LIHEAP application.

#### **Right to Non-Discrimination 415-05-30**

It is the intent of the Department of Human Services that the Low Income Home Energy Assistance Program be administered without discrimination by reason of race, color, sex, age, national origin,

religion, or disability. For additional policy, refer to ~~(Service Chapter 300-01-02-09-33), Non-Discrimination to Clients, located on the County Intranet in the 'Legal' folder.~~

~~Each applicant or beneficiary of services or assistance shall be informed of the non-discrimination policies of the Department of Human Services programs along with instructions on how to obtain additional information. Information regarding non-discrimination policies of the Department of Human Services programs will be included on the instruction pages of the LIHEAP application. receive a copy of the brochure, SFN 143, "Your Civil Rights Under North Dakota Department of Human Services Programs." This brochure explains the Civil Rights Act of 1964, and other acts that protect persons who receive services from the Department of Human Services. The brochure also explains what a client should do if they feel they have been discriminated against.~~

5. 415-05-45 – Informational Brochures. Clarified policy regarding the receipt of brochure at time of initial application and at time of reapplication.

#### **Informational Brochures 415-05-45**

~~A copy of the brochure "North Dakota's Energy Assistance Program: LIHEAP" as well as the Department Civil Rights brochure MUST be mailed or given to each applicant at the time of initial application and at the time of a reapplication. An applicant MUST be mailed or given a copy of the brochure, 'LIHEAP: Low Income Home Energy Assistance Program', at the time of initial application and at the time of a reapplication. The applicant MUST also be informed of the non-discrimination policies of the Department of Human Services programs. Information regarding non-discrimination policies of the Department of Human Services programs will be included on the instruction pages of the LIHEAP application.~~

It will not be necessary to mail this brochure when notifying the household of changes in eligibility, authorization periods, or at the time of authorization of miscellaneous or emergency payments.

Additional supplies of these brochures can be ordered from the supply unit of the Department of Human Services in Bismarck.

## **Application & Verification Procedures 415-15**

6. 415-15-10-05-05 – SSI/SSA Income - Verification. Clarification of policy regarding the use of ND✓erify System for verifying SSI/SSA Income.

### **SSI/SSA Income - Verification 415-15-10-05-05**

~~Neither TPQY nor SDX can be accessed to verify SSA/SSI benefits for individuals that are only in receipt of LIHEAP. If verification is obtained for TANF, Medicaid, Healthy Steps or SNAP it may also be used for LIHEAP.~~

~~If the case is a LIHEAP case only, the eligibility worker will need to obtain the information from the client.~~

ND✓erify (Other Benefits) can be accessed to verify SSA/SSI benefits received by LIHEAP households. If the results are inconsistent with what the household has provided, the household needs to be referred to the Social Security Administration to obtain current verification.

Verification can also be obtained by sending SFN 1059, "Authorization to Release Information" signed by the claimant directly to the Social Security Administration.

7. 415-15-10-05-15 – Unemployment Compensation – Verification. Clarification of policy regarding use of the ND✓erify System for verifying unemployment compensation.

### **Unemployment Compensation - Verification 415-15-10-05-15**

ND✓erify or Job Service UIB real-time system can be accessed to

verify ND Unemployment Insurance Benefits (UIB) for LIHEAP households. If the results are inconsistent with what the household has provided, the household needs to be referred to Job Service North Dakota to obtain current verification.

Verification can also be obtained by sending SFN 1059, "Authorization to Release Information" signed by the claimant directly to the Job Service North Dakota.

~~To verify Unemployment Compensation, send SFN 1059, "Authorization to Release Information." The 'online' Unemployment Benefit screen, on the Job Service web site, can also be used for verification purposes.~~

8. 415-15-10-05-20 – Deductions – Verification. Clarification of policy regarding use of the ND✓erify System for verifying child support deductions.

#### **Deductions - Verification 415-15-10-05-20**

Except for the earned income deduction, all deductions ([415-25-05-05](#)) from the gross income that exceed \$1,000\* per year must be verified. (The \$1,000\* applies to each category of deductions, i.e., Medical, Health and Hospitalization Insurance, Child Support, etc.). Acceptable verifications may include:

1. Medical Canceled checks, receipts, vendor account statements.
2. Health and Hospitalization Insurance Premiums Canceled checks, receipts, vendor account statements.
3. Child Support ~~The Child Support Enforcement System (FACSES) ND verify~~, when available. ([See 448-01-50, Interfaces](#))
4. Education Bills, statements, receipts, from the educational institution (See [415-25-05-05](#) Item 7)
5. Garnishment Copy of the court order/Verification of IRS levies, etc. (See [415-05-05](#) Definition of Garnishment)
6. Employment Statement from employer, work schedule from employer, receipts from motels or work-site landlord (See [415-25-05-05](#) Item 7)
7. Child Care Canceled checks, receipts from providers, etc. in combination with evidence of the amount reimbursed from an outside source such as TANF.

\* The \$1,000 is not an automatic deduction. A client can claim up to that amount per category without providing verification, but she or he must first claim to have had that expense.

9. 415-15-10-30 – Public Records – Use Without Knowledge or Consent. This section has been **repealed** as it is included in the Administrative Procedures manual (448-01-25-15-25, Use of Records without Knowledge or Consent).

### **Benefits Available & Eligible Households 415-20**

10. 415-20-10-05 – “Sleeping Room” Renters. Clarified policy regarding sleeping room renters when living area is shared.

#### **“Sleeping Room” Renters 415-20-10-05**

A sleeping room is less than a complete living unit that may or may not have a private entrance. ~~If the living unit has both kitchen and bath facilities within it, it is NOT a sleeping room. Renters of sleeping rooms may be eligible for LIHEAP benefits.~~

- Sleeping room renters who share the use of other rooms (kitchen and bath facilities, living area) located in the same dwelling unit ARE NOT considered sleeping room renters and ARE NOT eligible for LIHEAP benefits as a separate household.
- Sleeping room renters who have their own kitchen and bath facilities in the dwelling unit ARE NOT considered “sleeping room” renters. These renters may be eligible for LIHEAP benefits as a separate household.

In determining basic eligibility for sleeping room renters, the household must meet both income and asset limitations. The household's estimated cost of heating will be one-fourth of the one bedroom column on the cost/consumption table, not to exceed 25% of annual rent costs.



11. 415-20-10-50 – Aliens Barred from LIHEAP Participation. Added additional information for clarification and to align verbiage with that of other programs. **This is not a change in policy.**

### **Aliens Barred from LIHEAP Participation 415-20-10-50**

~~The Immigration Reform and Control Act of 1986 P.L. 99-603 bars some aliens from participation in LIHEAP.~~

~~Newly legalized aliens will have unique identification cards issued by the Immigration and Naturalization Service. (INS Form 688) Based on the identification card and the LIHEAP application, you should be able to determine if the individual is or is not barred from participation in LIHEAP in accordance with the following categories:~~

- ~~1. Aged, blind and/or disabled, and certain Cuban and Haitian entrants (contact State Office for interpretation) that have resided illegally in the United States since January 1, 1982, and have been granted lawful status are eligible to participate in LIHEAP.~~
- ~~2. All other individuals that have resided illegally in the United States since January 1, 1982, and have been granted lawful temporary resident status are barred from participation in LIHEAP for a period of five years. This status became effective for most between May 1987 and May 1988. Therefore, these aliens will reach the end of their disqualification period between May 1992 and May 1993.~~
- ~~3. Certain individuals who performed seasonal agricultural work in the United States during a specified period of time (Special Agricultural Workers—SAWS) that have been granted temporary resident status leading to eventual lawful permanent status are eligible for LIHEAP assistance.~~
- ~~4. After FFY'90, individuals may be admitted to the United States as Replenishment Agricultural Workers (RAWS) as lawful temporary residents to meet a shortage of agricultural workers. These individuals will not be eligible for LIHEAP assistance for a period of~~

~~five years except for certain Cuban and Haitian entrants or unless the individual is aged, blind, and/or disabled.~~

- ~~5. Iraqi and Afghani aliens and family members who claim special immigrant status must provide verification that they have been admitted under section 101(a) (27) of the INA. Once found eligible for LIHEAP, the household would be eligible for the full season in which they applied.~~

Some aliens are barred from participation in the LIHEAP program.

Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORS), commonly known as the welfare reform law, prohibits non-qualified aliens from receiving federal public benefits.

Qualified aliens, regardless of when they entered the United States, are eligible to receive LIHEAP benefits provided that all other program requirements are met.

**NOTE: Verification of the entry status for non-citizens may be accessed via the Systematic Alien Verification for Entitlements (SAVE).**

A "qualified alien" is defined as an alien who, at the time an alien applies for, receives, or attempts to receive LIHEAP, is:

- 1) An alien who is lawfully admitted for permanent residence (LPR) under the Immigration and Nationality Act (INA),
- 2) An alien who is lawfully admitted for residence as verified by an INS document indicating that the individual has approval to reside in the U.S. (does not have to be permanent authorization),
- 3) A refugee who is admitted to the United States under section 207 of such Act,

- 4) An alien who is granted asylum under section 208 of such Act,
- 5) An alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,
- 6) An alien whose deportation is being withheld under section 243(h) of such Act as in effect prior to April 1, 1997 or section 241(b)(3) of such Act,
- 7) An alien who is granted conditional entry under section 203(a)(7) of such Act as in effect prior to April 1, 1980,
- 8) An alien who is a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980),
- 9) An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of 8 U.S.C. 1641(c),
- 10) An Iraqi and Afghani aliens who have been granted special immigrant status under section 101(a)(27) of INA,
- 11) A Native American born in Canada who possesses at least 50% of blood of the American Indian race
- 12) Canadian Indians ~~are eligible for LIHEAP if they~~ who provide a blood quantum letter which contains information from the individual's Band, Tribe, and Nation and states that the individual's blood quantum is at least 50% aboriginal blood. The document may use the following verbiage:
  - ...at least 50% Aboriginal blood
  - ...at least 50% Indigenous blood
  - ...at least 50% North American Indian blood
  - ...at least 50% American Indian blood

~~All Indians on reservations must use tribal programs. See policy at 415-20-10-15 regarding eligibility of Native American households living on reservations.~~

## **Eligibility Determination 415-25**

12. 415-25-05-05-10 – Medicare Premiums – How to Deduct. Updated policy regarding the use of ND✓ify for verification of Medicare premium out-of-pockets costs.

### **Medicare Premiums - How to Deduct 415-25-05-05-10**

The amount of the Medicare **Part B** premiums can be deducted from gross income, unless the individual has their premiums paid through the Medicare Savings Programs (QMB) (SLMB) & (QI1).

ND✓ify (Other Benefits) can be used to verify out-of-pocket costs for Medicare **Part B** premiums.

The actual out-of-pocket premiums for Medicare **Part D** may be deducted if the individual is responsible for paying them.

~~The Bendex screen makes information available regarding the income that a person receives from Social Security and also tells you if the state of ND pays the Medicare premium (See Premium Payer if ND is there the premium is paid by ND Medical Assistance).~~

~~If the ND is there a deduction cannot be made for the Medicare premium and the gross amount must be used to determine Social Security income. If the ND is not there then the premium amount can be deducted from the gross Social Security check.~~

~~If using TPQY look directly under "BUYIN" data under Part "B" and there is information for "Start Date" then the state is paying the premium for Medicare and it cannot be deducted.~~

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·BEIN·.....BENDEX·INQUIRY·.....061807·
11:03¶
.....LAST·UPDATE·02/28/07·.....LINDA·E¶
·NAME·:·DOE,·JANE¶
.....SEX·:·F·..DOB·:·04/18/196¶
.....ENTITL·DATE·:·05/98·DISABL·DATE·:·11/82·
·SSN·:·999999999¶
·CLAIM·#:·999999999C1·.....PAY·STATUS·CODE·:·CP·CURRENT·PAY¶
·CROSS·REF·CLAIM·#:·¶
·¶
·MEDICARE·DATA¶
·PART·A·COVERAGE·:·YES·.....PARNISHMENT·WITHHELD·:¶
·START·DATE·:·05/00·.....GROSS·BENEFIT·:·349.00¶
·STOP·DATE·:·.....MONTHLY·OVERPYMT·DEDUCTION·:·¶
·PREMIUM·AMT·:·.....PART·"B"·PREMIUM·DEDUCTION·:·¶
·PREM·PAYER·:·.....NET·BENEFIT·PAYABLE·:·349.00¶
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·PART·B·COVERAGE·:·YES¶
·START·DATE·:·05/00¶
·STOP·DATE·:·¶
·PREMIUM·AMT·:·93.50¶
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- 13. 415-25-05-10 - Income Eligibility Levels. **Changed** income eligibility limits for FY2015.

**Income Eligibility Levels 415-25-05-10**

The income eligibility limits for heating assistance are based on 60% of the North Dakota median income. The monthly income eligibility levels are determined by dividing the annual amount by 12 months and rounding off to the nearest dollar (indicated by \*).

Therefore, the adjusted gross income eligibility limits for ~~FY2014~~ FY2015 are as follows:

<u>Household Size</u>	<u>Annual Eligibility Limit</u>	<u>Monthly Eligibility Limit*</u>
1	\$26,885	\$2,240
2	\$35,157	\$2,930
3	\$43,430	\$3,619
4	\$51,702	\$4,309
5	\$59,974	\$4,998
6	\$68,247	\$5,687
7	\$69,798	\$5,816
8	\$71,349	\$5,946
9	\$72,900	\$6,075
10	\$74,451	\$6,204
11	\$76,002	\$6,333
12	\$77,553	\$6,463

- 14. 415-25-05-15-15 – Income Counted When Household Composition Changes. Added clarification for income calculation when household members change in month of application. THIS IS NOT A CHANGE IN POLICY.

**Income Counted When Household Composition Changes 415-25-05-15-15**

Some households may have had a change in household members prior to the month of application.

~~When this occurs, For LIHEAP eligibility and benefit calculation are determined as follows: do NOT count income received during the months prior to application are determine as follows: of any person who is not in the household the month of application; and for any past month, do NOT count the income of any person who was not in the household during that month.~~

Income and assets of any person who is in the household as of the date of application **MUST** be considered in determining eligibility and used in the benefit calculation.

When determining income and asset eligibility in months prior to the month of application, only consider the income and assets of current household members (at the time of application), unless the individual was not in the household in the past month(s).

1. If an individual moves into the household after application and prior to the initial eligibility determination, the individual's income **MUST** be counted. If initial eligibility determination was made and the household reports a member entered the household, the report is treated as a change.
2. Income and assets of any person who **WAS** in the household prior to the date of application but is not in the household as of the date of application is **NOT** counted for the month of application or any prior months.

**Unpaid bills** incurred prior to the month of application for which the current household is held liable, may have the LIHEAP Percent Share of the bill paid if eligibility is established for those months based on the income of current household members. Reimbursement cannot be paid for the LIHEAP percent of the bill incurred prior to the month of application unless the current household member can verify that previous members did NOT participate in the payment of those bills.

15. 415-25-05-20-20 – Other Income. Clarification of policy regarding child support income. Change in royalty income calculation (use gross income instead of net income) due to implementation of the standardized EAP Self-Employment Policy.

#### **Other Income 415-25-05-20-20**

Income from all other sources not excluded by [415-25-05-30](#) must be included in the determination of the household's income.

7. Child support and alimony payments. It is mandated by LIHEAP that ~~NDVerify the Child Support Enforcement System (FACSES)~~, when available, must be used to determine child support income. See IM 5181 regarding instructions for accessing verifications through NDVerify for LIHEAP only cases. IM 5181 will be incorporated into the Administrative Procedures Policy Manual 448-01 as a new section.
12. Income from rental of property  
**Profit Income** from royalties (**gross**) or rental of property (gross receipts minus expenses) must be included in the determination of annual income. If ~~the profit from royalties/rentals income~~ is being taken from IRS forms (Schedule E or Form 4835), it is necessary to add depreciation back in. If the household does not report ~~royalty/rental~~ income to the IRS, the following types of expenses may be deducted: advertising, cleaning and maintenance, insurance, interest, legal or professional fees, repairs, supplies, taxes (but not income taxes), utilities. If the rental property is part of the household's primary residence and expenses for each portion of the property have not been separated, the household must provide a measurement of the rental portion and the household's living unit in order to establish a percentage of the expenses of the entire property which may be deducted from gross rent receipts.
16. 415-25-05-25 – Self-Employment Income  
**The following sections have been repealed:**
- 415-25-05-25-05 – Self-Employment Income Considerations
  - 415-25-05-25-10 – Self-Employment Income – Special Circumstances
  - 415-25-05-25-15 – Self-Employment – Wages Paid to Family Members
  - 415-25-05-25-20 – Federal Tax Forms – Guidelines for Gathering Income



17. 415-25-05-27 – Self-Employment. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192 and AMENDED IM 5192.**

### **Self-Employment 415-25-05-27**

An individual who is working for themselves, rather than for an employer, is considered self-employed. The individual may be a contractor, franchise holder, owner/operator, partner, etc. The individual must meet the following criteria to be considered self-employed:

1. Earn the income directly from business or trade, not from wages or salary from an employer.
  2. Be responsible for the payment of entire Social Security and Federal withholding taxes. [If an employee, the employer would pay half of their Social Security Tax and withhold federal income tax from the employee's salary.]
  3. File self-employment tax forms, however, not all individuals file tax forms. In these special circumstances, income must be anticipated.
18. 415-25-05-27-05 – Calculating Self Employment Income. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

### **Calculating Self-Employment Income 415-25-05-27-05**

Self-employment income is normally calculated by completing the EAP Self-Employment Worksheet using data from tax forms as verification. Information for each business must be calculated separately. When a household has filed self-employment income taxes the income is determined as follows:

- If the income represents a household's annual income, the income must be annualized over a 12-month period of time,

even if the income is received within a shorter period of time during those 12 months.

- If a self-employment enterprise has been in existence for less than a year and continues to operate, the income must be averaged over the period of time the business has been in operation.
- If an individual is self-employed for only part of the year to supplement their income from regular employment, the self-employment income must be averaged over the period of time it is intended to cover rather than a 12-month period.

**Example:**

**An individual may be a self-employed painter during the three summer months and works as a housekeeper for regular wages the rest of the year. The self-employment income from painting is averaged over the three summer months because it is intended to meet the individual's needs for only part of the year.**

When the total business 'profit' as calculated above results in a loss, for LIHEAP, zero income will be used. A loss from a self-employment business cannot be used to offset or reduce income from other self-employment or other sources such as earned income.

19. 415-25-05-27-10 – Anticipating Self Employment Income in Special Circumstances. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

**Anticipating Self-Employment Income in Special Circumstances 415-25-05-27-10**

When a household has not filed a self-employment income tax return or there has been a significant increase or decrease in the operation of the business, income tax forms, monthly ledgers or bookkeeping

records may be used as verification. The income is determined as follows:

1. Business Not In Operation a Complete Calendar Year or Tax Forms Not Filed
  - a. The applicant will need to provide monthly income and expense ledgers to anticipate self-employment income and unearned income as a result of self-employment. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income.
2. Partial Liquidation of Business
  - a. If a business sells some land, equipment, or other capital items to obtain money for current operating expenses and/or pay off a loan, and does not expect a substantial reduction in self-employment income as a result of the sale, continue to look at the most recent income tax forms.
  - b. If the business liquidates a large enough portion of the business to result in an anticipated substantial reduction in the self-employment income, the income tax forms must be appropriately adjusted to accurately anticipate the current year's income using the most recent income tax forms. Income and expenses (other than depreciation and depletion) for the portion of the business that is not being liquidated is used to determine net self-employment income.

Capital gains/losses on sale of property are counted as income.

**NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.**

- c. If the business expects to liquidate partially but has not done so yet, use the most recent income tax forms in their entirety until the liquidation takes place.

3. Significant Increase or Decrease in Operation

A farm or business may have a significant increase or decrease in operation that is temporary and does not result in liquidation of the business. In these cases, one of the following methods must be used:

- a. If the applicant has had an estimated tax return prepared for the current business year, use the estimated tax return forms to complete the EAP Self-Employment Worksheet.
- b. If the applicant has prepared documents (such as farm plans) from a lender or bank or monthly income and expense ledgers, these documents may be used to arrive at the current year's anticipated income and expenses. The EAP Anticipated Self-Employment Worksheet will assist with determining the monthly net farming and business income.

Anticipated capital gains/losses on sale of property are counted as income.

4. Termination Of Business

- a. If a business expects to completely liquidate but has not done so yet, continue to use the most recent income tax forms or one of the methods described in #3 above until the business has liquidated.
- b. If a business has been completely liquidated, tax forms cannot be used to evaluate the applicant's income. Use only whatever income is currently available from other sources.

20. 415-25-05-27-15 - Treatment of Self-Employment Income. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

### **Treatment of Self-Employment Income 415-25-05-27-15**

When an individual is actively engaged in a self-employment business, the income they receive is considered earned income. The following types of income are always considered earned income:

- Capital or Ordinary Gains/Losses
- Farm Income
- Business Income
- Partnership – Ordinary income, guaranteed payments to partners, depreciation and depletion

However, there are some types of income included on the self-employment income tax forms that are considered unearned income. The following types of income are always considered unearned income:

- Royalty income
- Cooperative distributions (patronage dividends)
- Partnership – rental, interest and dividend income
- Income from S-Corporations
- Estate or trust income

The following types are considered earned or unearned depending on whether the individual is actively engaged in earning the income and the self-employment tax forms filed.

- Farm rental income
- Other rental income

The earned income must be separated from the unearned income and will be when using the self-employment calculation worksheet.

21. 415-25-05-27-20 – Determining Self Employment Income. This **new section** is for implementation of the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

**Determining Self-Employment Income 415-25-05-27-20**

1. Capital or Ordinary Gains or Losses – A capital or ordinary gain or loss is the difference between the sale price and the cost basis. The cost basis may include improvements and sales expenses such as broker’s fees and commissions.

Capital or ordinary gains or losses are considered part of the **EARNED** income from self-employment. The gain or loss is calculated by deducting the cost basis from the gross sale price. The result is then added to or subtracted from the calculation of the self-employment income for the business the property was used in.

**NOTE: Use only the income or loss from the sale of capital items that can be reasonably anticipated to recur during the current year.**

**This income is generally included on the Schedule D or Form 4797.**

2. Farm Income – Income earned through the operation of a farm or ranch including farm rental income and CPR.
- a. Farm Rental Income – Income received by a landowner from the sale of crops or livestock produced by the tenant. **This does not include cash rent of pasture or farmland.**
- b. Conservation Reserve Program Payments (CRP) – Cost share and payment program under the USDA that encourages farmers to convert highly erodible crop land or other environmentally sensitive acreage to vegetative cover.

Farm income, including farm rental income and CRP:

- Is considered **EARNED** income when the individual is actively engaged in farming. The total farm income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm income as it is considered unearned income. Depreciation is added back in as this is not an allowable expense.

**NOTE:** **Cooperative distributions (patronage dividends) may include income from the sale of goods (grain, milk, cattle, etc.). Any portion of cooperative distributions that is income from the sale of goods must not be deducted from farm income.**

**This income is generally included on the Schedule F.**

- Is considered **UNEARNED** income as a result of self-employment when the individual is NOT actively engaged in farming. The total farm rental income or loss is determined by taking the taxable amount of cooperative distributions (patronage dividends) from the net farm rental income and adding in the depreciation.

The amount of cooperative distributions is deducted from farm rental income as it is considered unearned income on a separate line in the calculation. Depreciation is added back in as this is not an allowable expense.

**NOTE:** **Cooperative distributions (patronage dividends) may include income from the sale of goods (grain, milk, cattle, etc.). Any portion of cooperative distributions that is income from the sale of goods**

**must not be deducted from farm rental income.**

**This income is generally included on the Form 4835.**

3. Business Income – Income earned through the operation of a business other than farming or ranching.

Business income is considered **EARNED** self-employment income. Business income is determined by taking the net business income profit or loss and adding in the depletion or depreciation. Depreciation and depletion are added back in as they are not allowable expenses.

**This income is generally included on the Schedule C.**

4. Partnerships – A partnership is a self-employment business set up as a partnership with two or more partners. A partner's share of income, gain, loss, deductions or credits is determined by a partnership agreement.

- Ordinary income and guaranteed payments to partners in a partnership are considered **EARNED** self-employment income. **This income is generally included on the Schedule K-1 (Form 1065).** The partner's share of the partnership income is determined by adding the partner's share of depreciation or depletion to their ordinary income and guaranteed payments. Depreciation and depletion are added back in as they are not allowable expenses. **The depreciation and depletion are generally included on the Form 1065.**
- Rental, interest and dividend income paid to partners in a partnership are considered **UNEARNED** income as a result of self-employment. The partner's share of the partnership income is the total of the rental, interest and dividend income. **This income is generally included on Schedule K-1 (Form 1065).**



5. Other Rental Income – Income received from the cash rental of property.

Other rental income is considered **UNEARNED** income as a result of self-employment. Rental income is determined by taking the total net rental income from all rental properties and adding in the depreciation or depletion. Depreciation and depletion are added back in as these are not an allowable expense. **This income is generally included on Schedule E.**

6. Royalty Income – a percentage of gross or net revenues derived from the use of an asset or a fixed price of a unit sold of an item.

Income individuals receive from royalties is considered **UNEARNED** income as a result of self-employment. **Royalty income is generally included on Schedule E.**

7. Cooperative distributions (patronage dividends) - are paid by cooperatives in cash or shares of stock. These dividends are similar to rebates paid based on the amount of goods bought or services used for the self-employment enterprise.

Income individuals receive from cooperative distributions or patronage dividends is considered **UNEARNED** income as a result of self-employment. **Cooperative distributions or patronage dividends are generally included on Schedule F and Form 4835.**

**NOTE: Cooperative distributions (patronage dividends) may include income from the sale of goods (grain, milk, cattle, etc.). The portion of cooperative distributions that is income from the sale of goods is considered as part of the farm income or farm rental income.**

8. S –Corporation – a separate business entity with 1 to 100 shareholder(s) that passes through the net profit or loss to their shareholder(s). The business profits are taxed at individual tax rates on each individual shareholder’s income tax.

Income shareholders receive from a corporation is considered **UNEARNED** income as a result of self-employment. **This income is generally included on the Schedule K-1 (1120S).** The shareholder’s income is determined by adding the shareholder’s share of depreciation or depletion to their ordinary business income, net rental real estate income, interest income and dividend income. Depreciation and depletion are added back in as these are not an allowable expense. **Depreciation and depletion are generally found on the Form 1120S.**

**NOTE:** An owner or employee of a corporation is not a self-employed individual because the business income and liabilities belong to the corporation, not the individual. Wages that an owner or employee receive from a corporation are considered earned income.

9. Estate or Trust Income – Income received from an estate or trust.

Income individuals receive from estate or trusts is considered **UNEARNED** income as a result of self-employment. **Estate or trust income is generally included on Schedule E.**

22. 415-25-05-27-25 – Other Types of Self-Employment Income. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

**Other Types of Self-Employment Income 415-25-05-27-25**

The following types of income may or may not be listed on self-employment tax forms. If the income is not listed on the self-employment tax forms, the income must be verified separately.

1. Qualified Service Provider (QSP) – Qualified Service Providers (QSPs) are individuals who provide care for people who want to continue to live in their own homes and communities. QSPs do not need to have a special certificate or license, but they do need to prove they have the skills to provide care.
  - QSP income is considered **EARNED** self-employment income when the individual is not an employee of an agency.
  - QSP income is considered regular earned income when the individual is employed by an agency.
2. Boarder - Individuals or groups of individuals residing with others and paying reasonable compensation for lodging and meals.

Income from boarders is considered **EARNED** self-employment income when the individual providing the board is actively engaged in providing the lodging and meals and the boarder is not included in the household based on program policy.

To calculate income from room and board, take the monthly gross receipts less \$100 per boarder.

23. 415-25-05-27-30 – Wages Paid to Family Members. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

**Wages Paid to Family Members 415-25-05-27-30**

Wages paid to family members are an allowable business expense.

However, the wages paid to family members must be counted as earned income separately from self-employment income unless the earned income is specifically excluded by program policy.

**Exception:**

**Earned income of all dependent children age 19 or under and attending an elementary or high school 1/2 time or more will NOT be counted.**

The income tax forms identify wages paid to family members as wages or labor hired but does not separate outside labor hired from wages paid to family members. The household will need to identify and verify the amount paid to family members (cancelled checks, W-2 forms, bank books showing transfer of funds).

24. 415-25-05-27-35 – Allowable Expenses. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

**Allowable Expenses 415-25-05-27-35**

The following expenses are allowable deductions from self-employment income. Because the EAP Self-Employment Worksheet uses net income any of these expenses claimed on the tax form are already deducted. The Anticipated Self-Employment Worksheet also accounts for these expenses.

If a household verifies any of the following expenses incurred as a result of self-employment income that were not included on the tax

forms, the expense must be allowed by deducting it from the net income.

- Advertising
- Car and truck expenses
- Chemicals
- Commissions and fees
- Conservation expenses
- Contract labor
- Custom hire (machine work)
- Employee benefit programs
- Feed
- Fertilizers and Lime
- Freight and Trucking
- Gasoline, Fuel and Oil
- Insurance (other than health)
- Interest (mortgage and other)
- Labor hired
- Legal and professional services
- Office expenses
- Pension and profit-sharing plans
- Rent or lease (vehicles, machinery, equipment, business property, land, animals)
- Repairs and maintenance
- Seeds and Plants
- Storage and Warehousing
- Supplies
- Taxes (Real estate, employer's match of payroll taxes, contributions to state unemployment insurance, licenses)
- Travel, meals, entertainment
- Utilities and phone
- Veterinary, breeding and medicine
- Wages
- Other expenses such as:
  - Bad debts
  - Bank service charges
  - Dues and publications
  - Laundry and cleaning

- Tools
- Day care meal expenses (if not reimbursed through a food program)

25. 415-25-05-27-40 – Non-Allowable Expenses. This **new section** incorporates the standardized EAP Self-Employment Policy. **This supersedes IM 5192.**

### **Non-Allowable Expenses 415-25-05-27-40**

The worker must determine if an expense is non-allowable based on whether the expense is part of producing income. The following expenses are not allowable deductions from self-employment income:

- Expenses and net operating losses (NOL) from previous periods.
- Depreciation/depletion - to allow these costs would result in exclusion for amounts that are not actual costs.
- Other expenses that are not incurred as a result of self-employment income, such as:
  - Charitable contributions
  - Penalties and fines

26. 415-25-05-45 – Room Payments. Clarified policy regarding room arrangements.

### **Room Payments 415-25-05-45**

For the purpose of determining LIHEAP benefits, a "room" arrangement exists if there is a negotiated agreement to make payments for room, in cash or in kind, regardless of whether the person making the payments is related to the client.

Monthly payments received by the client will be counted as annual income.

In a room arrangement, the person making room payments will **not** be counted as a member of the household, **nor will** his income be included when determining the applicable income eligibility level for the household. The bedroom of this person will **not** be counted.

Conversely, the income of an individual living in the household who does not have a negotiated rate of payment for room will be included in the total household income, the individual person will be counted as a member of the household, and the bedroom of the person will be counted.

NOTE: If a room arrangement exists but the person making room payment has privileges to use other rooms in the dwelling unit, then they must be counted as a member of the household for LIHEAP eligibility purposes. Their income will be included in the total household income and the bedroom of the person will be counted. The monthly room payments will be disregarded as an exchange of funds between household members.

### **Benefit Computation 415-30**

27. 415-30-10 - Household Poverty Level Percentages Table. **Changed** poverty level percentages and updated income eligibility limits for FY2015.

#### **Household Poverty Level Percentages Table 415-30-10**

The poverty level percentage to be applied to each household's annual adjusted gross income will be calculated by the computer according to the level of their income and the number of persons in the household at the time of application. Therefore, it is essential to have accurate data in these two fields.

The Poverty Level Percentage Table used by the computer:

	<b>Household Share 1%</b>	<b>Household Share 2%</b>	<b>Household Share 3%</b>	
<b># of Persons</b>	<b>0-20% of Median Income</b>	<b>21-40% of Median Income</b>	<b>41-60% of Median Income</b>	
			<b>Annual Eligibility Limit</b>	<b>Monthly Eligibility Limit</b>
1	0 - 8,962	8,963 - 17,923	17,924 - 26,885	2,240
2	0 - 11,719	11,720 - 23,438	23,439 - 35,157	2,930
3	0 - 14,477	14,478 - 28,953	28,954 - 43,430	3,619
4	0 - 17,234	17,235 - 34,468	34,469 - 51,702	4,309
5	0 - 19,991	19,992 - 39,983	39,984 - 59,974	4,998
6	0 - 22,749	22,750 - 45,498	45,499 - 68,247	5,687
7	0 - 23,266	23,267 - 46,532	46,533 - 69,798	5,816
8	0 - 23,783	23,784 - 47,566	47,567 - 71,349	5,946
9	0 - 24,300	24,301 - 48,600	48,601 - 72,900	6,075
10	0 - 24,817	24,818 - 49,634	49,635 - 74,451	6,204
11	0 - 25,334	25,335 - 50,668	50,669 - 76,002	6,333
12	0 - 25,851	25,852 - 51,702	51,703 - 77,553	6,463



28. 415-30-10-01 – Monthly and Annual Eligibility Limits (Adjusted Gross Income). Changed eligibility limits for FY2015.

**Monthly and Annual Eligibility Limits (Adjusted Gross Income)  
415-30-10-01**

NUMBER OF PERSONS	MONTHLY ELIGIBILITY LIMIT	ANNUAL ELIGIBILITY LIMIT
1	\$2,240	\$26,885
2	\$2,930	\$35,157
3	\$3,619	\$43,430
4	\$4,309	\$51,702
5	\$4,998	\$59,974
6	\$5,687	\$68,247
7	\$5,816	\$69,798
8	\$5,946	\$71,349
9	\$6,075	\$72,900
10	\$6,204	\$74,451
11	\$6,333	\$76,002
12	\$6,463	\$77,553

29. 415-30-20 – Authorization Period Computation. Clarification of policy.

**Authorization Period Computation 415-30-20**

The purpose of the authorization period is to prevent the designated vendor from billing for fuel delivered during an ineligible time period or for fuel the customer has already paid for. Therefore, the authorization period will not necessarily include all the months a household has eligibility. The [descriptions sections](#) which follow provide examples of the correct use of the authorization period to achieve that purpose.

**Emergency Home Energy Assistance 415-50**

30. 415-50-05-15 – Furnace Replacement. Clarified policy regarding client cost share. In most cases, CAAs do not require clients to share in the furnace replacement costs.

**Furnace Replacement 415-50-05-15**

Emergency Assistance may be made available for a LIHEAP eligible individual home owner or an eligible renter with verifiable responsibility for maintenance of their furnace.

LIHEAP can only replace furnaces that:

1. are unsafe,
2. are not operating,
3. and/or cannot be repaired, and
4. wouldn't be cost-effective to repair.

Requests for furnace replacement must first be carefully reviewed by the county social service staff using the guidelines in this manual section. County staff should only pay for furnace replacement if Community Action Agency staff are not available to replace the furnace. If the county staff concludes the request is not eligible under these guidelines, the request should be denied, and referral to the State LIHEAP Administrator is NOT necessary. If the county staff recommends approval of the request, the "Emergency Assistance Application," with all the supporting data, must be referred to the State LIHEAP Administrator for approval through the LIHEAP Emergency System.

If the State Administrator delegates the performance to Division of Community Services, eligible LIHEAP clients will be referred to a local Community Action Agency (CAA) for furnace replacement. No "Emergency Assistance" application is needed if the client is a current client of LIHEAP. Notification to the CAA can come from the County

Social Service Board or the client. An approval letter is made available to client if he would like to contact the CAA himself.

Clients will be required to share in the cost of the furnace replacement as follows:

Clients at 41% - 60% of the poverty level 30% of the cost

Clients at 21% - 40% of the poverty level 15% of the cost

Clients at 20% of the poverty level or below 0

Clients in the 2% and 3% poverty levels will have their share of furnace costs capped at \$500. ~~A waiver may be granted for clients who are unable to raise their share of the furnace replacement costs. may request a waiver from the local CAA.~~

The client's share may come from other sources, but not LIHEAP or General Assistance funds. CAA's will assist clients in identifying and applying for other sources of federal, state, or private funds.

Temporary shelter, when necessary, will be the responsibility of the CAA.

Of course emergency situations will still occur that must be resolved before we can carefully negotiate a payment plan. We may need to make an immediate payment commitment to the supplier. But, the household must fully understand these guidelines. They should at least appear to be eligible, and you should be confident they will assume their responsibilities if some other payment plan is more appropriate. Or, to gain the necessary time, you may need to authorize payment of temporary alternative living arrangements for the household (See 415-50-05-15).

**Note:** LIHEAP will not pay to install a furnace as part of new construction or where the client has knowingly purchased a home that does not have a heating system unless the need for a replacement furnace is associated with a state or federally declared disaster.

If Community Action Agencies (CAA's) do not have money for furnace replacements, take the following steps:

1. Household fills out emergency assistance application if they are presently on the fuel assistance program. If the household is not on fuel assistance, you will need to get a regular application and an emergency application.
  2. Determine eligibility for regular LIHEAP and for emergency assistance. Remember that for emergency assistance you only look at the income for the current month.
  3. If the household is eligible for emergency assistance and is requesting assistance with furnace replacement then you need to:
    - a. Ask the household to contact two vendors to bid on the cost of the furnace and putting the furnace in. Vendors, if possible, should be close to the house that needs a furnace. The costs are lower when vendors are in the same community. You can ask the household if they have any ideas for vendors.
    - b. Provide household temporary shelter if needed.
    - c. Send a copy of the two bids to the state LIHEAP Administrator or Policy Analyst and a bid will be selected.
    - d. Let vendor know that he was the one selected and work closely with him to insure that the furnace is put in quickly.
    - e. Make payment (after the bill is received with detail on it) once the vendor has completed the furnace replacement, the furnace is working well and the household is satisfied. Use payment codes 13 and I to pay the vendor.
31. 415-50-30 – Emergency Assistance – Appeal Process. Removed redundant policy.

### **Emergency Assistance - Appeal Process 415-50-30**

If a household believes the decision made on their **Heating Assistance** or **Emergency Assistance** application may be wrong, or if they do not receive a written notice of the action taken on your Heating Assistance application within 45 days from the date their

application is received, they should **first** contact their county social service office to be sure they have all the information they need to correctly determine your eligibility.

If the household still believes the decision is wrong for some reason, they are entitled to request a hearing before the North Dakota Department of Human Services.

Contact the county social service office for instructions on how to request a hearing. The household's request for a hearing must be received within 30 days of the date of the notice of action. The household can have an attorney, relative, friend or other person assist them at the hearing.

If a household's hearing request is received within that time, their benefits will not be changed until a decision is reached. However, the household will be required to pay back any excess benefits received if the appeal is not successful.

A hearing officer will contact the household to arrange a hearing time and place that is convenient for them.

The household will receive a written decision from the North Dakota Department of Human Services.

#### Nondiscrimination

~~The household has the right to file a written complaint if they believe they have been discriminated against because of race, color, religion, national origin, age, gender, disability or status with respect to marriage or public assistance. The written complaint may be filed with the county social service office; the North Dakota Department of Human Services Office for Civil Rights, 600 E Boulevard Ave., Dept. 325, Bismarck, ND 58505; or the Office of Civil Rights, Department of Health and Human Services, Federal Office Building, 1961 Stout St., Denver, CO 80294.~~

**Forms Appendix 415-65**

32. 415-65-35 – SFN 1906, Anticipated Self-Employment Worksheet.. This section has been **repealed** as SFN 1906 has been replaced by the EAP Anticipated Self-Employment worksheet.

Par. 2. **Effective Date** – October 1, 2014