

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 5229 Cooperative Distributions (Patronage Dividends)
- IM 5234 Annuities, IRAs, and Retirement Accounts
- IM 5244 529 and 530 College Savings Plans

Benefits Available & Eligible Households 415-20

1. 415-20-05-05 – Benefits for Heating Assistance. Clarification of policy regarding allowable heat-related costs.

Benefits for Heating Assistance 415-20-05-05

Allowable heating-related costs which may be billed directly to LIHEAP include: all types of energy sources (oil, propane, natural gas, electricity, wood, kerosene, coal) used to provide heat to the eligible household's living unit only; and incidental costs, if normally billed to the household, including connection and re-connection charges, delivery charges, propane tank rental (tank rentals may be charged during the regular heating season using fuel type "08") and hook-up (the charge for the set-up or hook-up of a new tank must take place during the regular heating season. Use fuel type "16" to bill for the charges.). LIHEAP does not purchase tanks or pay installment payments for tanks which are on a purchase contract.

Regulators are the client's property, therefore the replacement charges for obsolete or non-functioning regulators, along with the miscellaneous costs needed for the hook-up of the regulator may be billed to LIHEAP. Use fuel type "16" to bill for these charges. These charges can be billed to LIHEAP anytime during the year. Those billed outside of the regular heating season need to be entered as a miscellaneous payment.

Low Income Home Energy Assistance Program payments to vendors can be made ONLY for costs of fuel actually purchased by the customer during the customer's period of eligibility that has NOT been paid for by the customer. County social service boards need to take extra care to instruct vendors that LIHEAP will NOT pay for fuel which has previously been paid for by the customer. However, special considerations may apply if the vendor and the customer have agreed upon an even monthly payment plan. (See [415-10-10-15](#).)

Allowable heating-related costs are paid at the client's established LIHEAP Share percentage.

2. 415-20-10-05 – "Sleeping Room" Renters. Added examples to section.

"Sleeping Room" Renters 415-20-10-05

Example: Ann pays \$250/month to rent a room in the home of an elderly couple. The area she rents is less than a complete living unit. It does NOT include a kitchen or living area. She shares those areas with the elderly couple. In this case, Ann would NOT be considered a sleeping room renter but would instead be considered a member of the elderly couple's household.

If Ann rents a room from the elderly couple but does NOT share the living areas (kitchen, living room, etc.) with them, then she would be considered a sleeping room renter.

If the area she rents is a complete living unit (kitchen, bath, etc.), then she would be considered a renter and may be eligible for LIHEAP benefits as a separate household.

3. 415-20-10-50 – Aliens Barred from LIHEAP Participation. Clarification of policy regarding non-qualified aliens.

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

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.

When a non-qualified alien is a member of a LIHEAP household, their income and assets WILL be counted when determining LIHEAP eligibility. However, the non-qualified alien will NOT be counted as a member of the household.

Eligibility Determination 415-25

4. 415-25-05-05-05 – Medical Expenses as Deductions. Clarification of policy when household member is legally responsible for medical expenses of former household member.

Medical Expenses as Deductions 415-25-05-05-05

The following list of allowable medical expenses is all-inclusive:

2. Hospitalization or outpatient treatment, nursing care, and nursing home care, including payments by the household for an individual who was a household member, ~~in the current heating season,~~ immediately prior to dying or entering a hospital or nursing home, if

the remaining household members are **legally responsible** for payment of the expenses.

5. 415-25-05-10 - Income Eligibility Levels. Updated income eligibility limits for FY2016.

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 FY2015 FY2016 are as follows:

<u>Household Size</u>	<u>Annual Eligibility Limit</u>	<u>Monthly Eligibility Limit*</u>
1	\$27,682	\$2,307
2	\$36,200	\$3,017
3	\$44,717	\$3,726
4	\$53,235	\$4,436
5	\$61,753	\$5,146
6	\$70,270	\$5,856
7	\$71,867	\$5,989
8	\$73,464	\$6,122
9	\$75,061	\$6,255
10	\$76,658	\$6,388
11	\$78,255	\$6,521
12	\$79,853	\$6,654

6. 415-25-05-20-20 – Other Income. **Change** in policy regarding annuities and other pension plans (**Supersedes IM 5234**).

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.

2. Monthly or regular payments from a pension fund (such as social security, SSI, railroad, veterans, & private pensions) dispersed according to the plan or lump-sum withdrawals from an IRA, Keogh plan, annuity, or similar instrument. To arrive at the countable income, the amount of the penalty (if any) should be deducted from the gross disbursement amount. ~~Pensions dispersed upon retirement according to the pension plan (normally as monthly checks) from all sources such as railroad, veterans, social security, SSI, and private pensions.~~

7. 415-25-05-27-15 – Treatment of Self-Employment Income. Change in policy regarding cooperative distributions (**Supersedes IM 5229**).

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.

- Cooperative distributions from the sale of goods
- 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.

8. 415-25-05-27-20 – Determining Self-Employment Income. Change in policy regarding cooperative distributions (**Supersedes IM 5229**).

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

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~~ **excluded**. 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~~ **excluded**. 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.

7. Cooperative distributions - From the sale of goods is countable income and must not be deducted from farm income. (~~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: For individuals that are self-employed, 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.**~~

9. 415-25-05-30 – Income Not Counted. Change in policy regarding cooperative distributions (**Supersedes IM 5229**).

Income Not Counted 415-25-05-30

ae. Cooperative Distributions (Patronage Dividends)

Exception: Any portion of cooperative distributions that is income from the sale of goods is countable income.

10. 415-25-10-10 05 – Assets – “Liquid”. **Change** in policy regarding annuities and other pension plans (**Supersedes IM 5234**). **Change** in policy to exclude 529 plans and 530 plans as countable assets (**Supersedes IM 5244**).

Assets - "Liquid" 415-25-10-10-05

"Liquid asset" is defined as any resource which can readily be converted to cash, and includes cash on hand, checking accounts, savings accounts, stocks (See **415-25-10-45**), bonds, pension plans (including **Individual Retirement Accounts (IRAs)**), Keogh plans, and Simplified Employer Pension Plans (**SEPs**), Individual Indian monies,

and other negotiable instruments. Note that certain large deposits designated for future living expenses may temporarily distort the liquid assets (#8).

To arrive at the countable cash value for any account or plan that imposes penalties for early withdrawals, subtract the amount of the penalty (if any) from the value of the account or plan.

"Liquid Assets" NOT Counted:

2. ~~The cash value of pension plans or funds that involve a contractual agreement with a third party, usually an employer. If withdrawn, they become an available asset in the month received.~~ Annuities or other pension plans as long as the money remains in the pension fund.

These include but are not limited to: Examples:

- State Retirement
- Teachers Retirement
- 457 plans
- 401(k) plans
- Federal Employee thrift savings plan
- 403(b) Plans, and
- 4501(c) (18) plans
- Keogh plans
- Individual Retirement Accounts (IRAs)
- Simplified Employer Pension Plans (SEPs)

NOTE: ~~If the withdrawn funds are "rolled over" into another exempt plan, such as those listed above, they remain exempt. However, if they are rolled over into a non-exempt plan, such as an IRA, they become an available asset.~~

Monthly or regular payments from the pension fund made according to the plan or lump-sum withdrawals from an IRA, Keogh plan, annuity, or similar instrument will be treated as a source of income (See 415-25-05-20-20, Other Income). To arrive at the countable

income, the amount of the penalty (if any) should be deducted from the gross disbursement amount.

However, a one-time payout of all funds in the pension or annuity is considered a conversion of an asset (See 415-10-25-30, Conversion of Assets).

~~3. The face value of an annuity, provided the annuity has provided income to the household between the previous June 1 and the following May 31.~~

17. 529 Qualified Tuition Program Plans and 530 Coverdell Education Savings Accounts. In North Dakota, 529 Program Plans are administered through the Bank of North Dakota and are called College Save.

These funds remain exempt as long as they are used for the intended purpose at the time withdrawn. If withdrawn and not used for the intended purpose, they are considered income in the month withdrawn and an asset in the month following the withdrawal.

11. 415-25-10-20 – Contract for Payment. Align verbiage with that of other programs. **This is not a change in policy.**

Contracts for Payment 415-25-10-20

~~A contractual right to receive money payments such as a note, mortgage, or contract for deed is usually received in exchange for real property, a business, or the sale of some other form of asset. Payments may be monthly, quarterly, or annually, and extend over a specified period of time. The payments will include both interest and a portion of the sale price of the property that was sold (principal) and must be calculated separately. The face value of the Contract that is producing income commensurate with prevailing community rates is NOT counted because it is producing income much like the asset that was sold.~~

~~The interest portion of each payment is considered income and must be included in the household's gross annual income.~~

~~The remainder of each payment, the portion to be applied on the principal amount owed for the sale of the property, continues to be an asset. To decide if it is included in the household's total assets, you will need to know if these funds are held in an available asset or in some form of uncounted asset.~~

When an applicant or recipient has sold property with a contract to receive a series of periodic payments, rather than one payment, the arrangement is usually called a "contract for deed". The essential feature of the contract for deed is the right to receive future payments, usually coupled with a right to get the property back if the payments are not made. Contractual rights to receive money payments also arise out of other types of transactions. The valuable contract document may be called a note, accounts receivable, mortgage, or by some other name.

NOTE: Some contractual rights may be written so the lender has the right to demand payment at any time. If so, the note is considered a demand note and can be called in at any time. If a note is written so the lender does not have the right to demand payment but the note is in default, it also becomes a demand note. Contractual rights may or may not have collateral or security to guarantee payment.

The payments will include both interest and a portion of the sale price of the property that was sold (principle) and must be calculated separately.

The **interest portion** of payments received for any contractual right to receive payments (such as Contracts for Deed) must be included in the household's gross annual income. If there are any costs to the deed holder, they may be subtracted from the interest earnings.

The **principle portion** of payments received for any contractual right to receive payments (such as Contracts for Deed) must be counted as

an asset, unless the funds are in the form of an uncounted asset.

The **face value of the contract** that is producing income commensurate with prevailing community rates is NOT counted because it is producing income much like the asset that was sold.

Benefit Computation 415-30

12. 415-30-10 - Household Poverty Level Percentages Table. Changed poverty level percentages and updated income eligibility limits for **FY2016**.

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:

	Household Share 1%	Household Share 2%	Household Share 3%	
# of Persons	0-20% of Median Income	21-40% of Median Income	41-60% of Median Income	
			Annual Eligibility Limit	Monthly Eligibility Limit
1	0 - 9,227	9,228 - 18,455	18,456 - 27,682	2,307
2	0 - 12,067	12,068 - 24,133	24,134 - 36,200	3,017
3	0 - 14,906	14,907 - 29,812	29,813 - 44,717	3,726
4	0 - 17,745	17,746 - 35,490	35,491 - 53,235	4,436
5	0 - 20,584	20,585 - 41,168	41,169 - 61,753	5,146
6	0 - 23,423	23,424 - 46,847	46,848 - 70,270	5,856
7	0 - 23,956	23,957 - 47,912	47,913 - 71,867	5,989
8	0 - 24,488	24,489 - 48,976	48,977 - 73,464	6,122
9	0 - 25,020	25,021 - 50,041	50,042 - 75,061	6,255
10	0 - 25,553	25,554 - 51,106	51,107 - 76,658	6,388
11	0 - 26,085	26,086 - 52,170	52,171 - 78,255	6,521
12	0 - 26,618	26,619 - 53,235	53,236 - 79,853	6,654

13. 415-30-10-01 - Monthly and Annual Eligibility Limits (Adjusted Gross Income). Updated eligibility limits for **FY2016**.

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

NUMBER OF PERSONS	MONTHLY ELIGIBILITY LIMIT	ANNUAL ELIGIBILITY LIMIT
1	\$2,307	\$27,682
2	\$3,017	\$36,200
3	\$3,726	\$44,717
4	\$4,436	\$53,235
5	\$5,146	\$61,753
6	\$5,856	\$70,270
7	\$5,989	\$71,867
8	\$6,122	\$73,464
9	\$6,255	\$75,061
10	\$6,388	\$76,658
11	\$6,521	\$78,255
12	\$6,654	\$79,853

Forms Appendix 415-65

14. 415-65-45 – LIHEAP Self-Employment Computation Guide. This section has been **repealed** as it has been replaced with the standardized EAP Self-Employment Policy.

Par. 2. **Effective Date** – October 1, 2015