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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-527.1

Summary

Amendment of ARM 37.71.601 and 37.71.602 pertaining to Low Income Weatherization Assistance Program (LIWAP)

Hearing Date and Time

Thursday, October 30, 2025, at 1:00 p.m.

Virtual Hearing Information

Join Zoom Meeting

<https://mt-gov.zoom.us/j/81387652361?pwd=Px7yfCRg8zsdcnlyMdHAAaUqCgEsxf.1>

Meeting ID: 813 8765 2361 and Password: 012810

Dial by Telephone +1 646 558 8656

Meeting ID: 813 8765 2361 and Password: 012810

Find your local number: <https://mt-gov.zoom.us/j/kcZJtE0BgY>

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may be submitted using the contact information below. Comments must be received by Friday, November 7, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Thursday, October 16, 2025, at 5:00 p.m.

Contact

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Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

37.71.601 ELIGIBILITY FOR WEATHERIZATION SERVICE: PRIORITIES

- (1) Except as provided in (1)(a), a dwelling is not eligible for weatherization services funded with U.S. Department of Energy (DOE) funds if the dwelling has been weatherized within the fifteen years following the date of the previous weatherization completion.
 - (a) Regardless of the time limitations imposed in (1), DOE funds may be used at any time to weatherize a dwelling that has been damaged by fire, flood, or act of God if the damage to weatherization materials will not be paid for by insurance.
- (2) Except as provided in (2)(a), a dwelling is not eligible for weatherization services funded with NorthWestern Energy free weatherization (NWE) funds if the dwelling has been weatherized within the ~~ten~~ five years following the date of the previous weatherization completion.
 - (a) Regardless of the time limitations imposed in (2), NWE funds may be used at any time to weatherize a dwelling that has been damaged by fire, flood, or act of God if the damage to weatherization materials will not be paid for by insurance.
- (3) Except as provided in (3)(a), a dwelling is not eligible for weatherization services funded with LIHEAP weatherization funds if the dwelling has been weatherized

within the ~~ten~~ five years following the date of the previous weatherization completion.

- (a) Regardless of the time limitations imposed in (3), LIHEAP funds may be used at any time to weatherize a dwelling that has been damaged by fire, flood, or act of God if the damage to weatherization materials will not be paid for by insurance.
- (4) Community residential facilities as defined at 76-2-411, MCA, that are the residence for low income elderly individuals or individuals with a disability are eligible for weatherization services.
- (5) In determining which eligible households will receive weatherization services, local agencies may prioritize households as follows: and in what order, households in each of the governor's substate planning districts will be ranked by priority according to the following:
 - (a) ~~The highest priority is given to households with the highest energy burden.~~ The highest priority is given to a household that has a primary heating source or primary water heater emergency. Emergency must be documented in the client file.
 - (b) Local agencies may then prioritize households with:
 - (i) ~~When calculating the energy burden of households containing any of the following, the energy usage shall be multiplied by 1.25:~~
 - ~~(A)(i)~~ an elderly household member (60 years of age or older);
 - ~~(B)(ii)~~ a disabled household member with a disability; or
 - ~~(C)(iii)~~ a household member who is a child.
 - (b)(c) ~~Households with the same energy burden are prioritized by highest usage.~~ Local agencies may give higher priority for weatherization services to households meeting two or more of the priority criteria listed in (b)(i) through (iii) than those households with just one.
- (6) If there exists a weatherization-related imminent threat to the health or safety of an eligible household, the home may be given a higher priority than described in (5). It is the obligation of the household to provide proof of an imminent threat to the health or safety of the household to the local contractor. The local contractor must request that the department give the household's dwelling a higher priority.
- (7) Weatherization will be scheduled to minimize travel and other nonproductive costs.
 - (a) If nonproductive costs are excessive, the scheduled home may be delayed for weatherization, but in no instance will the scheduled home be delayed longer than one year or the end of the contract period whichever comes first.

- (8) Eligible homes scheduled to receive partial weatherization from any other agency may be prioritized higher to allow coordination and avoid duplication of weatherization services.
- (9) If at least 66% of units in a multi-unit building, or 50% for duplexes and four-unit buildings, are eligible for weatherization, and one of the units is prioritized high enough to be scheduled for service, all of the units in the building, including units that are not eligible for weatherization, will be weatherized to avoid nonproductive costs.
- (10) When a dwelling is prioritized high enough to be scheduled for weatherization work, the delivery of services will be deferred until a later date if providing the services would pose a threat to the health or safety of either the weatherization installers or any other person. In such cases, the delivery of services will be postponed until the conditions that pose a threat to health or safety have been resolved. The department adopts and incorporates by reference the department's ~~2022~~ 2025 Weatherization Policy Manual effective July 1 ~~2025~~ 2022, which outlines the circumstances that justify a deferral of weatherization services. The Weatherization Policy Manual is located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance/> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, ~~Intergovernmental Human Services Bureau~~, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.

Authorizing statute(s): 53-2-201, 90-4-201, MCA

Implementing statute(s): 53-2-201, 90-4-201, 90-4-202, MCA

37.71.602 DETERMINING LOW INCOME WEATHERIZATION ASSISTANCE

- (1) Weatherization assistance is available to eligible households in accordance with the prioritized measures as determined by the State's Computerized Energy Audit (CEA) system.
- (2) Dwellings chosen to be weatherized must receive those measures determined to be cost effective as defined in 10 CFR 440, effective July 1, 2025, ~~as amended through July 1, 2022~~. The department adopts and incorporates by reference 10 CFR 440, effective July 1, 2025, ~~as amended through July 1, 2022~~. A copy of these federal regulations is available at <https://www.ecfr.gov/current/title-10/chapter-II/subchapter-D/part-440> or may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, ~~Intergovernmental~~

~~Human Services Division~~, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620-2956.

- (3) The department adopts and incorporates by reference the department's ~~2022~~ 2025 Weatherization Policy Manual and National Renewable Energy Laboratory (NREL) Standard Work Specifications effective July 1, 2022. The Weatherization Policy Manual is located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, ~~Intergovernmental Human Services Bureau~~, 1400 Carter Drive, P.O. Box 202956, Helena, MT 59620. The NREL Standard Work Specifications are located at the NREL web site at <https://sws.nrel.gov/>.

Authorizing statute(s): 53-2-201, 90-4-201, MCA

Implementing statute(s): 53-2-201, 90-4-201, 90-4-202, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.71.601 and 37.71.602 pertaining to the Low Income Weatherization Assistance Program (LIWAP).

ARM 37.71.601

The department is proposing to amend ARM 37.71.601 to update the number of years a dwelling must wait to be eligible for NorthWestern Energy free weatherization and LIHEAP weatherization funds. The department proposes reducing (from ten years to five years) the period in which a dwelling is eligible for weatherization services. This change is intended to provide greater energy cost savings for eligible LIHEAP households. In 2023, the federal Department of Energy (DOE) revised the lifespan of energy-saving improvements (measures). This lifespan is used when determining the savings-to-investment ratio (SIR) for energy cost-saving measures. This change resulted in more measures being eligible for installation in LIHEAP households.

The SIR is a metric used to measure the ability of technology to recover investment costs through savings achieved by reducing a customer's utility bill. The ratio divides the "savings" by the "investment"; an SIR score above 1 indicates that a household can recover the investment. Every dollar spent must be at least a dollar saved.

The change allows the department to use the March 3, 2023, WPN 23-6 Revised Energy Audit Attachments revised measure lifetimes when calculating the SIR. The older calculation method

prevented some energy cost saving measures from being installed in homes previously weatherized. The change to five years allows the department to return as appropriate to homes previously weatherized to install further energy cost saving measures that now would meet the SIR.

The department proposes the same change (from ten to five years) for work done with LIHEAP weatherization funding. This change will provide continuity when determining weatherization service eligibility, regardless of the source of weatherization funds.

Priorities are being updated to reflect the current federal regulations. The department proposes to include additional clarification for priorities. This clarification will help ensure that the most vulnerable eligible households are receiving services, while also giving subgrantees flexibility when determining which local households to weatherize.

The department proposes updating the date of the Weatherization Assistance Program Policy and Procedure Manual to July 1, 2025, as this is the policy manual the department proposes using for the 2025 program year. This is necessary to ensure that readers are reviewing the appropriate policy.

The department also proposes removing the reference to the Intergovernmental Human Services Bureau. This is not a substantive change; instead, it brings this rule into alignment with other administrative rules and simplifies the contact information for the department.

ARM 37.71.602

The department is proposing to amend (2) to require the use of the current version of 10 CFR, Part 440. This is necessary to ensure the most current version is utilized, and that public notice of this change is provided. The department is also proposing to amend (3) to ensure the updated Weatherization Assistance Program Policy and Procedure Manual is incorporated by reference. This is intended to provide the public with notice and an opportunity to comment on policy changes proposed by the department.

The department also proposes removing the reference to the Intergovernmental Human Services Bureau. This is not a substantive change; instead, it brings this rule into alignment with other administrative rules and simplifies the contact information for the department.

Effective Date

The department intends to apply these rule amendments retroactively to October 1, 2024.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Small Business Impact

Pursuant to 2-4-111, MCA, the class of small businesses probably affected by these proposed rules include HVAC, plumbing, home improvement wholesale suppliers, electricians, window distributors, and local contractors. The department has determined that the rule changes proposed in this notice will have a positive impact on small businesses. The availability of additional funding sources and the reduced time required between weatherization events will likely increase the number of homes that may be weatherized. The weatherization program supports local businesses, providing a platform for innovation in the energy retrofit industry and a market for local businesses providing workers, materials, or technical assistance.

Rule Reviewer

Heidi Sanders

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services