

## CLARIFICATION ON UTILITY ALLOWANCES

Pub. L. 102-550, title IX, §927, Oct. 28, 1992, 106 Stat. 3885, as amended by Pub. L. 103-185, §1, Dec. 14, 1993, 107 Stat. 2244, provided that:

“(a) ELIGIBILITY.—Tenants who—

“(1) are responsible for making out-of-pocket payments for utility bills; and

“(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 reduced or eliminated, except as provided in subsection (d).

“(b) EQUAL TREATMENT IN BENEFIT PROGRAMS.—Tenants described in subsection (a) shall be treated identically with other households eligible for or receiving energy assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes for any program in which eligibility or benefits are based on need, except as provided in subsection (d).

“(c) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], and title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

“(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in subsection (a)(2) who are responsible for paying some or all heating or cooling costs shall not have their eligibility automatically denied. A State may consider the amount of the heating or cooling component of utility allowances received by tenants described in subsection (a)(2) when setting benefit levels under the Low-Income Home Energy Assistance Program. The size of any reduction in Low-Income Home Energy Assistance Program benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received and must ensure that the highest level of assistance will be furnished to those households with the lowest incomes and the highest energy costs in relation to income, taking into account family size, in compliance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(5)).”

### § 8625. Nondiscrimination provisions

#### (a) Prohibitions

No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 also shall apply to any such program or activity.

#### (b) Procedures applicable to secure compliance

Whenever the Secretary determines that a State that has received a payment under this subchapter has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General

with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], or section 794 of title 29, as may be applicable; or (3) take such other action as may be provided by law.

#### (c) Maintenance of civil actions

When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(Pub. L. 97-35, title XXVI, §2606, Aug. 13, 1981, 95 Stat. 900.)

### Editorial Notes

#### REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a) and (b), is title III of Pub. L. 94-135, Nov. 28, 1975, 78 Stat. 728, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

### § 8626. Payments to States; fiscal year requirements respecting availability, etc.

(a)(1) From its allotment under section 8623 of this title, the Secretary shall make payments to each State in accordance with section 6503(a) of title 31, for use under this subchapter.

(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.

(b)(1) If—

(A) the Secretary determines that, as of September 1 of any fiscal year, an amount allotted to a State under section 8623 of this title for any fiscal year will not be used by such State during such fiscal year;

(B) the Secretary—

(i) notifies the chief executive officer of such State; and

(ii) publishes a timely notice in the Federal Register;

that, after the 30-day period beginning on the date of the notice to such chief executive officer, such amount may be reallocated; and

(C) the State does not request, under paragraph (2), that such amount be held available for such State for the following fiscal year;

then such amount shall be treated by the Secretary for purposes of this subchapter as an amount appropriated for the following fiscal year to be allotted under section 8623 of this title for such following fiscal year.

(2)(A) Any State may request that an amount allotted to such State for a fiscal year be held available for such State for the following fiscal year. Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year. Any amount so held available for the following fiscal year shall not be taken into account in computing the allotment of or the amount payable to such State for such fiscal year under this subchapter.

(B) No amount may be held available under this paragraph for a State from a prior fiscal year to the extent such amount exceeds 10 percent of the amount payable to such State for such prior fiscal year. For purposes of the preceding sentence, the amount payable to a State for a fiscal year shall be determined without regard to any amount held available under this paragraph for such State for such fiscal year from the prior fiscal year.

(C) The Secretary shall reallocate amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.

(3) During the 30-day period described in paragraph (1)(B), comments may be submitted to the Secretary. After considering such comments, the Secretary shall notify the chief executive officer of the State of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(Pub. L. 97-35, title XXVI, §2607, Aug. 13, 1981, 95 Stat. 900; Pub. L. 98-558, title VI, §606, Oct. 30, 1984, 98 Stat. 2892; Pub. L. 101-501, title VII, §706, Nov. 3, 1990, 104 Stat. 1260; Pub. L. 103-252, title III, §310, May 18, 1994, 108 Stat. 661; Pub. L. 105-285, title III, §307, Oct. 27, 1998, 112 Stat. 2758.)

#### Editorial Notes

##### CODIFICATION

In subsec. (a)(1), “section 6503(a) of title 31” substituted for “section 203 of the Intergovernmental Cooperation Act of 1968 [42 U.S.C. 4213]” on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

##### AMENDMENTS

1998—Subsec. (b)(2)(B). Pub. L. 105-285 struck out “and not transferred pursuant to section 8623(f) of this title” after “such prior fiscal year” in first sentence and “but not transferred by the State” after “the amount payable to a State” in second sentence.

1994—Subsec. (a). Pub. L. 103-252 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (b)(2)(B). Pub. L. 101-501 substituted “10 percent” for “15 percent”.

1984—Subsec. (b)(2)(A). Pub. L. 98-558, §606(a), inserted “Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such

fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year.” and “or the amount payable to” after “computing the allotment of”.

Subsec. (b)(2)(B). Pub. L. 98-558, §606(b), substituted “15 percent” for “25 percent”, “payable to such State for such prior fiscal year and not transferred pursuant to section 8623(f) of this title” for “allotted to such State for such prior fiscal year”, and “payable to a State but not transferred by the State” for “allotted to a State” in second sentence.

Subsec. (b)(2)(C). Pub. L. 98-558, §606(c), added subpar. (C).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective Oct. 1, 1994, see section 314 of Pub. L. 103-252, set out as a note under section 8621 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-558 applicable to amounts held available for fiscal years beginning after Sept. 30, 1985, see section 609(c) of Pub. L. 98-558, set out as a note under section 8621 of this title.

#### § 8626a. Incentive program for leveraging non-Federal resources

##### (a) Allotment of funds

Beginning in fiscal year 1992, the Secretary may allocate amounts appropriated under section 8621(d) of this title to provide supplementary funds to States that have acquired non-Federal leveraged resources for the program established under this subchapter.

##### (b) “Leveraged resources” defined

For purposes of this section, the term “leveraged resources” means the benefits made available to the low-income home energy assistance program of the State, or to federally qualified low-income households, that—

(1) represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates; and

(2)(A) result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid; or

(B) are appropriated or mandated by the State for distribution—

(i) through the State program; or

(ii) under the plan referred to in section 8624(c)(1)(A) of this title to federally qualified low-income households and such benefits are determined by the Secretary to be integrated with the State program.

##### (c) Formula for distribution of amounts

(1) Distribution of amounts made available under this section shall be based on a formula developed by the Secretary that is designed to take into account the success in leveraging ex-