

Changes to the Heat and Eat Provision in the 2014 Farm Bill and How LIHEAP Participants May Be Affected

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Overview

The 2014 Farm Bill¹ was enacted on February 7, 2014 and includes a provision that significantly modifies the SNAP² Heat and Eat, which works to increase the amount of food assistance for an eligible household. Heat and Eat allows a household to claim the Standard Utility Allowance (SUA) as a deduction from countable income if the household receives payments under the Low Income Home Assistance Program (LIHEAP). Importantly, Heat and Eat affects the SNAP benefit amount, not the eligibility determination. Under the recently passed Farm Bill, a household's LIHEAP benefit must exceed \$20 to qualify for the use of a higher SUA in the food assistance benefit calculation. The impact on families in the states that have relied on lower-dollar LIHEAP grants to qualify households for the SUA is estimated to be a reduction in food assistance of \$90 a month, on average. This issue brief explains what happened to the Eat and Heat provision in the 2014 Farm Bill and how states have responded.

Background on the SNAP Heat and Eat Provision

There is a provision in SNAP that allows for a streamlined calculation of a household's utility costs, by using the SUA. With Heat and Eat, SNAP applicants can show receipt of a LIHEAP benefit, versus providing copies of months of utility bills, to qualify for the use of the SUA. The use of the SUA can lead to a larger SNAP benefit because it is factored into the determination of the SNAP "Excess Shelter Deduction".³

The intersection of SNAP and LIHEAP

The federal LIHEAP program is not an entitlement program and thus relies on the annual Congressional appropriations process for funding. The regular LIHEAP funds are allocated to states through a statutory formula and states prepare an annual state plan that sets forth eligibility criteria, household benefits amounts, and other aspects of a state's LIHEAP program, such as amount set aside for crisis assistance and low-cost weatherization. The LIHEAP program gives priority consideration to households with the highest energy burdens (percentage of home energy cost against household income) and those vulnerable to extremes in temperature — the frail elderly, very young children, or those with serious medical conditions. In general, only about 16% of eligible households receive a LIHEAP benefit. The LIHEAP statute requires equitable treatment of

¹ The Agricultural Act of 2014 (Pub. Law No. 113-79).

² The Supplemental Nutrition Assistance Program, formerly known as food stamps.

³ See, Randy Alison Aussenberg and Libby Perl, *The Next Farm, Bill: Changing the Treatment of LIHEAP Receipt in the Calculation of SNAP Benefits*, Congressional Research Service (May 13, 2013), p 5. ("An SUA often 'tips the scale' toward enabling an applicant household to qualify for an excess shelter deduction.")

homeowners and renters.⁴ Tenants who pay for their utilities in their rent can still be eligible for LIHEAP assistance. The size of the LIHEAP assistance can vary depending on the degree of need. There simply isn't enough LIHEAP funding to help all who are eligible, so states must make an annual determination of where to set benefit levels and eligibility criteria to best meet the needs in their states. One major concern regarding the legislative change requiring a \$20 LIHEAP payment in order to trigger the SUA: these \$20 payments will add up quickly and limit the ability of LIHEAP to help all those in need of fuel assistance within a state.

The SNAP benefit level is determined by the amount of an eligible household's disposable income. Budget items that lower a household's disposable income (and thus increase the amount of food assistance) include housing and utilities costs. SNAP provides special consideration for struggling households with very high shelter costs (housing and utility costs that exceed 50% of a household's discretionary income, known as the Excess Shelter Deduction). This provision leads to larger SNAP benefits to ensure these households have enough in their budget for food.⁵

States can set a SUA that is a reasonable approximation of a low-income household's heating and cooling costs. This is more administratively efficient than having applicants bring in months of utilities bills and having caseworkers review the bills to derive an estimate of the household's monthly utility costs. The SUA varies by state and some states have several SUAs to account for whether the household pays for heating and cooling directly (versus in rent). Prior to the 2014 Farm Bill, the Heat and Eat provision allowed the receipt of a LIHEAP benefit of any amount to qualify a household for the highest SUA, which can result in the application of the Excess Shelter Deduction. The application of the Excess Shelter Deduction in the determination of a household's net income leads to increased food assistance. The rationale is that to receive LIHEAP, the low-income household has demonstrated that it has unaffordable heating and/or cooling costs. Studies have shown that low-income households must often juggle basic necessities: rent, food, and utilities⁶. Heat and Eat helps to mitigate this quandary by freeing up income for other necessities.

Prior to the 2014 Farm Bill, 17 states used the Heat and Eat program design. According to the Congressional Research Service (CRS), 16 states allowed a nominal LIHEAP grant (for example, a \$1 LIHEAP benefit) to qualify a household for the higher SUA. The 16 states cited by CRS are: California, Connecticut, Delaware, DC, Maine, Massachusetts, Michigan, Montana, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin. New Hampshire's SNAP program treated the

⁴ 42 U.S.C. § 8624(b)(8).

⁵ There are other deductions that can be applied to the households net monthly income in addition to the Excess Shelter Deduction in certain circumstances, including a standard deduction, earned income deduction, child support deduction and a dependent care deduction.

⁶ See e.g., National Energy Assistance Directors' Association, *2011 National Energy Assistance Survey* (Nov. 2011)(to pay their energy bills, 24% of LIHEAP recipients went without food, 37% went without medical or dental care, 34% did not fill or took less than the full dose of a prescribed medicine). Available at <http://www.neada.org/news/nov012011.html>.

application for a LIHEAP benefit as automatically qualifying the household for the SUA.⁷

Effect of the 2014 Farm Bill

Timing of Implementation

The new Heat and Eat rules went into effect March 7, 2014, but the 2014 Farm Bill also allowed states to postpone implementation of the \$20 LIHEAP SUA until August 7, 2014, according to NCSL's calculation⁸. For current Heat and Eat participants, the application of the new rule will depend on when it is time for them to re-certify SNAP eligibility and if their state has opted to delay implementation of the new rules. The LIHEAP program follows the October 1 - September 31 fiscal year, so states will still be operating under their FY 2014 LIHEAP plans. However, states can amend their LIHEAP plans with the US Health and Human Services, Administration for Children and Families.

Households that had relied on nominal LIHEAP benefits for the higher SUA can still use the more cumbersome process of bringing in utilities bills to document higher utility costs for the higher SUA/Excess Shelter Deduction determination. However, they would need to be aware of this option and have ready access to their bills.

While it is currently unclear how many households will be affected by the new Heat and Eat rules, the Congressional Budget Office (CBO) had offered an estimate on the impact of a similar, earlier House bill requiring a \$20 LIHEAP benefit. The CBO had estimated that 850,000 households would receive a SNAP benefit that was, on average, \$90 less per month.⁹ The actual impact of the new Heat and Eat rules will depend on how the states and SNAP-eligible households respond. The issuance of over-\$20-month LIHEAP benefits for Heat and Eat will add additional stress to state LIHEAP programs so it is foreseeable that some states will walk away from Heat and Eat under these new rules. However, several jurisdictions have indicated that they will continue with Heat and Eat under the new rules: Connecticut, Massachusetts, Montana, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.¹⁰ Additional states are reported to be considering post-Farm Bill 2014 Heat and Eat, including California, Maine, Michigan, New Jersey, Washington, and Wisconsin.¹¹

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⁷ See, Randy Alison Aussenberg and Libby Perl, *The Next Farm, Bill: Changing the Treatment of LIHEAP Receipt in the Calculation of SNAP Benefits*, Congressional Research Service (May 13, 2013).

⁸ Tadeo Melean, "Heat and Eat" and SNAP Changes in the 2014 Farm Bill (Agriculture Act of 2014 P.L. 113-79), National Conference of State Legislatures (April 16, 2014).

⁹ Congressional Budget Office, *Cost Estimate: Nutrition Reform and Work Opportunity Act of 2013* (Sept. 16, 2013).

¹⁰ See Bill Tomson, *GOP Memo Says SNAP Cuts Will Stand*, Politico, March 21, 2014) and Jake Grovum, *States Resist Food Stamp Cuts*, Pew Charitable Trusts (March 17, 2014).

¹¹ *Id.*