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POLICY TRANSMITTAL NO. 08-16	DATE: MAY 23, 2008
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

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TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:20-1, Table of Contents; 20-1-3 through 20-1-4; 20-1-7; 20-1-11; 20-1-13; 20-1-15; and 20-1-17.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

The proposed revisions to Subchapter 1 of Chapter 20 amend the rules to: (1) correct when Low Income Home Energy Assistance Payments (LIHEAP) are made; (2) clarify how income eligibility is determined; (3) remove resource standards for the program as they are shown on an Oklahoma Department of Human Services (OKDHS) appendix instead; (4) remove reference to an obsolete form; (4) add clarifying language; (5) use current terminology; and (6) show current form names and numbers.

340:20-1-3 is amended to: (1) correct when payment is made; and (2) provide clarifying language.

340:20-1-4 is amended to update language to current terminology.

340:20-1-7 is amended to add clarifying and updated language to current terminology.

340:20-1-11 is amended to: (1) add clarifying language regarding how income eligibility is determined; (2) update language to current terminology; (3) show current form names and numbers; and (4) remove resource standards for the program as they are shown on an appendix instead.

340:20-1-13 is amended to: (1) add clarifying language; (2) update language to current terminology; and (3) remove reference to an obsolete form.

340:20-1-15 is amended to: (1) add clarifying language; and (2) update language to current terminology.

340:20-1-17 is amended to: (1) remove reference to expedited services since LIHEAP payments are now made weekly; (2) add clarifying language; (3) show current form names and numbers; and (4) update language to current terminology.

Original signed on 3-31-08

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Mary Stalnaker, Director  
Family Support Services Division

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Sharon Neuwald, Coordinator  
Office of Legislative Relations and Policy

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WF # 07-39 (NAP)

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## **INSTRUCTIONS FOR FILING MANUAL MATERIAL**

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

### **REMOVE**

340:20-1, Table of Contents

340:20-1-3

340:20-1-4

340:20-1-7

340:20-1-11

340:20-1-13

340:20-1-15

340:20-1-17

### **INSERT**

340:20-1, Table of Contents, 1 page only, revised 6-1-08

340:20-1-3, pages 1-2, revised 6-1-08

340:20-1-4, 1 page only, revised 6-1-08

340:20-1-7, 1 page only, revised 6-1-08

340:20-1-11, pages 1-5, revised 6-1-08

340:20-1-13, pages 1-2, revised 6-1-08

340:20-1-15, pages 1-2, revised 6-1-08

340:20-1-17, pages 1-4, revised 6-1-08



**SUBCHAPTER 1. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM**

Section

- 340:20-1-1. Purpose
- 340:20-1-2. Legal base
- 340:20-1-3. Scope
- 340:20-1-4. Coordination with Native American energy programs
- 340:20-1-5. Coordination with Family Support programs
- 340:20-1-6. Coordination with utility suppliers
- 340:20-1-7. Outreach
- 340:20-1-8. Citizenship and alien status
- 340:20-1-9. Priorities
- 340:20-1-10. Program factors
- 340:20-1-11. Income and liquid resources
- 340:20-1-12. Applications
- 340:20-1-13. Verification
- 340:20-1-14. Actions, method of payment, and notifications
- 340:20-1-15. Other procedures
- 340:20-1-16. Energy crisis assistance **[REVOKED]**
- 340:20-1-17. Energy crisis assistance
- 340:20-1-18. Expedited services during regular heating assistance program **[REVOKED]**



**340:20-1-3. Scope**Revised 6-1-08

(a) The operation of the Low Income Home Energy Assistance Program (LIHEAP) is contingent upon the receipt of federal funds. Delay in federal funding can cause changes in planned time frames for the program.

(b) Selected households already approved for other benefits administered by the Family Support Services Division (FSSD) are normally pre-authorized during October. ■ 1 All other households must complete an application.

(1) The heating assistance part of LIHEAP normally begins the first working day in December, and applications are taken for a month or less.

(2) After certification, one payment is made directly to the designated supplier of the primary source of home heating on behalf of approved households responsible for their own utilities unless a situation arises which may necessitate two or more payments. Examples of situations that may necessitate two or more payments include a delay in federal funding, release of contingency funds by the President, and similar situations.

(3) Payments are made weekly for the duration of the program.

(c) The same payment schedule in (b) of this Section is used for unsubsidized renters and roomers with utilities included in their rent and for households whose energy source is wood, coal, heating oil, or kerosene, except that payments are made directly to approved households.

(d) Primary sources of home energy include natural gas, electricity, propane, firewood, kerosene, coal, or butane.

(1) LIHEAP payments are made for utility expenses, deposits, and reconnect charges applicable to the household's primary source of home energy. If both the client and OKDHS paid reconnect charges or deposits, the utility supplier must reimburse the client for those charges.

(2) When other utilities are included with the fuel bill and the amount for the primary source of home energy cannot be identified, or when the fuel vendor only accepts payment for the combined amount, the combined amount may be paid through LIHEAP.

(e) Payments are not made for blankets, emergency repair on the home, new or additional heating equipment, or heating appliances. Propane tank rental and delivery charges are not covered, if they are identifiable.

**INSTRUCTIONS TO STAFF 340:20-1-3**

**Issued 6-1-08**

**1. Households preapproved for the Low Income Home Energy Assistance Program (LIHEAP) are those who received benefits all 12 months of the previous year and met all the criteria shown in (1) through (4).**

**(1) The household received LIHEAP the previous year.**

**(2) The address remained the same.**

**(3) The household size remained the same.**

**(4) The income did not change during the year.**

### **340:20-1-4. Coordination with Native American energy programs**

Revised 6-1-08

Applications are accepted and processed from members of Native American tribes which have been approved to administer their own program. ■ 1 The Oklahoma Department of Human Services (OKDHS) coordinates with each participating tribe to prevent duplication of assistance. ■ 2

(1) Any Native American household that has applied for Low Income Home Energy Assistance Program (LIHEAP) payments through the tribal agency is not eligible for LIHEAP certification through OKDHS regardless of whether they have expended their tribal LIHEAP maximum authorized amount.

(2) When a Native American household applies first through OKDHS for LIHEAP or is a member of a tribe that does not have its own LIHEAP, they are given the same consideration as any other household. If a tribal member is approved for OKDHS LIHEAP and later wants to apply for a tribal LIHEAP, the OKDHS certification is canceled, as long as payment has not already been made.

### **INSTRUCTIONS TO STAFF 340:20-1-4**

Revised 6-1-08

- 1. See Oklahoma Department of Human Services (OKDHS) Appendix D-4-B, Oklahoma Indian Tribes Administering Their Own LIHEAP Program.**
- 2. The OKDHS Family Support Services Division Low Income Home Energy Assistance Program (LIHEAP) Section staff provides the Oklahoma Indian Affairs Commission a cumulative list by county and tribe of the Native American households that have been certified for LIHEAP. To prevent Native American households from receiving duplicate payments, the local human services center staff must verify with the tribal agency that the Native American household is not receiving LIHEAP assistance through the tribe, either through current lists provided by the tribal agency or by telephone arrangement.**



**340:20-1-7. Outreach**

Revised 6-1-08

The Oklahoma Department of Human Services (OKDHS) provides information and presentations regarding the Low Income Home Energy Assistance Program (LIHEAP) to interested individuals and community agencies for the duration of the program. ■ 1

**INSTRUCTIONS TO STAFF 340:20-1-7**

**Issued 6-1-08**

**1. It is the responsibility of the county director in each human services center to coordinate outreach to interested individuals and community agencies. Examples of agencies include:**

**(1) Community Action Agencies;**

**(2) other the local service providers;**

**(3) public and private organizations serving and representing elderly and disabled persons;**

**(4) federal government offices;**

**(5) home energy suppliers;**

**(6) the public education system;**

**(7) local law enforcement agencies;**

**(8) community-based organizations; and**

**(9) the mass media.**



### **340:20-1-11. Income and liquid resources**

Revised 6-1-08

(a) **Income.** All gross earned and unearned income received by the household is considered in determining financial eligibility except for those income sources shown at (b) of this Section. Eligible households must meet the income standard less the earned income deduction as shown on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size.

(1) Income which is received on an annual basis is prorated over 12 months to arrive at the average monthly income.

(2) If the income is not received on a regular monthly basis, refer to OAC 340:10-3-31.

(3) Total income is rounded to the nearest dollar.

(4) When an individual's income is reduced due to recoupment of an overpayment or garnishment, the gross amount before the recoupment or garnishment is considered.

(5) When an illegal alien is part of an eligible household, the countable portion of his or her income is computed as outlined in (A) through (E) of this subsection.

(A) For each employed household member, subtract the earned income deduction as shown on Appendix C-7.

(B) Add the unearned income of the illegal alien.

(C) Subtract the need standard on OKDHS Appendix C-1, Schedule of Maximum Income, Resource, and Payment Standards Schedule IX, for the appropriate number of persons. Persons counted for the need standard are the illegal alien and his or her illegal alien dependents who:

(i) are claimable for federal personal income taxes;

(ii) live in the same household; and

(iii) are not included in determining the Low Income Home Energy Assistance Program (LIHEAP) benefit level because they are illegal aliens.

(D) Subtract the actual amounts paid by the illegal alien to dependents not living in the household as well as actual child support and alimony payments to non-household members.

(E) The remaining amount is the amount considered available to the household members eligible for LIHEAP.

(b) **Income disregards.** In determining income, disregard:

(1) the food benefit amount under the Food Stamp Act of 1977;

(2) any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(3) educational grants, including work study, or scholarships, that are contingent upon the student regularly attending school. The student's classification, whether graduate or undergraduate, is not a factor;

(4) loans, regardless of use, if a bona fide debt or obligation to pay can be established.

(A) Criteria to establish a loan as bona fide includes an acknowledgment of obligation to repay or evidence that the loan is from an individual or financial institution in the loan business.

(B) If the loan is from a person(s) not in the loan business, the borrower's acknowledgment of obligation to repay, with or without interest, is required to indicate that the loan is bona fide;

(5) Indian payments including judgment funds or funds held in trust and distributed per capita by the Secretary of the Interior Bureau of Indian Affairs (BIA) or distributed by the tribe subject to approval by the Secretary of the Interior. Also, disregard any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any per capita payments, for example, headrights of Osage tribe, income from mineral leases, or other tribal business ventures, are disregarded as long as they meet the distribution requirements as stated in this paragraph. Any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(6) special allowance for school expenses made available upon petition in writing from trust funds of the student;

(7) benefits from State and Community Programs on Aging [Title III]. Income from the Older American Community Service Employment Act [Title V], including American Association of Retired Persons (AARP) and Green Thumb organizations as well as employment positions allocated at the discretion of the Governor of Oklahoma, is counted as earned income;

(8) unearned income received by a child receiving Temporary Assistance for Needy Families (TANF), such as a needs based payment, cash assistance, compensation in lieu of wages, or allowance, from a program funded by the Workforce Investment Act (WIA) including Job Corps income, and WIA earned income received as wages, not to exceed six months in any calendar year;

(9) payments for supportive services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE);

(10) payments to volunteers under the Domestic Volunteer Service Act of 1973, Volunteers in Service to America (VISTA), unless the gross amount of VISTA payments equals or exceeds the state or federal minimum wage, whichever is greater;

(11) the value of supplemental food assistance received under the Child Nutrition Act or the special food service program for children under the National School Lunch Act;

(12) any portion of payments, made under the Alaska Native Claims Settlement Act to an Alaska native, which are exempt from taxation under the Settlement Act;

(13) Experimental Housing Allowance Program (EHAP) payments made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended;

(14) earnings of a minor dependent child who is a full-time student;

(15) rental or housing subsidies by governmental agencies, for example, United States Department of Housing and Urban Development (HUD), received in-kind or in cash for rent, mortgage payments, or utilities;

(16) reimbursements from an employer for out-of-pocket expenditures and allowances for travel or training to the extent the funds are used for expenses directly related to such travel or training. Uniform allowances are disregarded if the uniform is uniquely identified with company name or logo;

(17) advance payments of Earned Income Tax Credit (EITC) or refunds of EITC as a result of filing a federal income tax return;

(18) refunds of state EITC as a result of filing a state income tax return;

(19) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the IN RE Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.) are not considered as income or as a resource in determining eligibility for or the amount of the benefit;

(20) payments received for Emergency Assistance to Needy Families with Children;

(21) Medicare buy-in premium;

(22) work related expenses that are applicable under the TANF Program;

(23) payments made by others on the household's behalf;

(24) in-kind benefits received by an employee from an employer in lieu of wages or in conjunction with wages;

(25) payments made under the Radiation Exposure Compensation Act (P.L. 101-426) enacted October 15, 1990;

(26) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations;

(27) interests of individual Native Americans in trust or restricted lands;

(28) income up to \$2,000 per year received by individual Native Americans, which is derived from leases or other uses of individually-owned trust or restricted lands. Any remaining disbursements from the trust or the restricted lands are considered as income;

(29) payments made to individuals because of their status as victims of Nazi persecution; and

(30) monetary allowances as described in Section 1823(c) of Title 38 of the United States Code (USC) provided to certain individuals who are children of Vietnam War veterans.

(c) **Resources.** Liquid resources, such as cash on hand, checking or savings

accounts, certificates of deposits, stocks or bonds, cannot exceed the allowable resource level as shown on OKDHS Appendix C-7. The applicant's statement is accepted as verification unless the information received is inconsistent or questionable.



### **340:20-1-13. Verification**

Revised 6-1-08

(a) **Income and resources eligibility.** Income is verified for the Low Income Home Energy Assistance Program (LIHEAP) using the same procedures as for Temporary Assistance for Needy Families (TANF) at OAC 340:10-3.

(1) If all members of the household are included in TANF, State Supplemental Payment, or food benefits, verification of income and resources is established by that case record.

(2) All other applications have eligibility determination based on current month's income and resources of the total household. ■ 1

(b) **Vulnerability determination.** To determine vulnerability, a household must show that it is subject to the expense of home energy.

(1) A household which pays energy costs directly to suppliers establishes vulnerability by billing information on the utility statement.

(2) A household whose energy cost is included in the shelter payment must provide proof it is subject to the expense of home energy. Proof may include a statement from the landlord or a rent receipt designating inclusion of fuel cost. ■ 2

(3) Subsidized households whose heating costs are included in their rent but are assessed an energy surcharge must provide documentation of the assessed surcharge. These households are then considered partially vulnerable and are eligible for LIHEAP, if they meet other eligibility criteria.

### **INSTRUCTIONS TO STAFF 340:20-1-13**

Revised 6-1-08

1. The client's statement regarding income and liquid resources is acceptable unless questionable. Income determination may be made by:

(1) case record;

(2) SDX;

(3) award letters; and

**(4)** similar data.

2. **If the required verification is already included in the case record, the worker uses that verification to determine vulnerability.**

**340:20-1-15. Other procedures**Revised 6-1-08

(a) **Referral for low income weatherization assistance.** Homeowner households who are eligible for Low Income Home Energy Assistance Program (LIHEAP) may be eligible for low income weatherization assistance through funds Oklahoma Department of Human Services (OKDHS) allocates to the Oklahoma Department of Commerce (ODOC) for the weatherization assistance program. The actual weatherization services are provided locally through Community Action Agencies pursuant to approval from ODOC. Renters are not eligible for LIHEAP weatherization services.

(1) The Family Support Services Division (FSSD) LIHEAP Section staff provides ODOC with a list of clients approved for LIHEAP. The list is then transmitted by ODOC to local Community Action Agencies for use in identifying homeowner households eligible for LIHEAP weatherization assistance.

(2) The local OKDHS human services center (HSC) staff responds to direct inquiries from the local Community Action Agency or local weatherization contractor concerning the eligibility for LIHEAP of households not appearing on the list.

(3) The HSC accepts LIHEAP referrals from local contractors and expedites the processing of the LIHEAP application.

(4) The HSC county director sends representatives to projects and meetings of local contractors for intake and certification of potentially eligible individuals when, in the sole discretion of the HSC county director, this outreach can effectively and efficiently be accomplished. The HSC staff inquires about the condition of the LIHEAP applicant's residence and refers LIHEAP homeowner clients in need of weatherization services, and who have not received weatherization services in a prior year, to the Community Action Agency or the local weatherization contractor.

(b) **Fair hearing.** Fair hearing rules at OAC 340:2-5 that apply to the Temporary Assistance for Needy Families (TANF) category also apply to LIHEAP except that immediate adverse action may be taken on open cases without an advance notice. Because of the emergency situation that may exist, a request for a hearing is expedited.

■ 1

(c) **Overpayments.** When HSC staff determines an overpayment exists, the worker submits a memo explaining the overpayment to the FSSD LIHEAP Section. ■ 2 All overpayments are used as part of the LIHEAP monitoring process rather than in a collection process.

(d) **Referral for vendor fraud.** When HSC staff becomes aware of situations where a vendor accepts payment from OKDHS on behalf of a household, but fails to provide service, either wholly or in part, as legally required, HSC staff contacts the FSSD LIHEAP Section for potential referral to the OKDHS Office of Inspector General (OIG).

(e) **Transfers.** Cases being transferred do not normally need to be closed. ■ 3

## **INSTRUCTIONS TO STAFF 20-1-15**

Revised 6-1-08

- 1. The county director reviews cases appealed on the basis of an alleged administrative error and either directs needed corrections or refers for a fair hearing.**
- 2. When the worker determines an overpayment exists, the worker writes a brief report explaining the reason for the overpayment and sends the report to the Family Support Services Division Low Income Home Energy Assistance Program (LIHEAP) Section.**
- 3. The same procedures are used for transferring LIHEAP cases as are used in other assistance categories.**

**340:20-1-17. Energy crisis assistance**Revised 6-1-08

(a) **Energy crisis assistance**. Energy crisis situations are handled during the regular heating assistance program, and through the Energy Crisis Assistance Program (ECAP) in March. Clients in a crisis situation must make application by contacting the local human services center (HSC). ■ 1

(1) If a household is approved for assistance to resolve the crisis situation, the application is processed within 48 hours from the time the HSC receives the application. ■ 2

(2) When the crisis situation is verified by a designated authority as life-threatening and the household qualifies for assistance, the application must be processed so that assistance is provided to resolve the crisis situation within 18 hours following receipt of the application. ■ 2 Authority for designating a crisis situation as life-threatening is limited to a:

- (A) physician;
- (B) public health official;
- (C) licensed practitioner of the healing arts; or
- (D) HSC county director.

(b) **Energy Crisis Assistance Program (ECAP)**. Based upon previous years' program experience, reasonable funds are reserved until March 15 of each year for ECAP. All ECAP applications must be made on Form 08LH002E, Application for Low Income Home Energy Assistance.

**(1) Eligibility criteria**.

(A) Households with an energy crisis must not exceed the income and liquid resource standards on Oklahoma Department of Human Services (OKDHS) Appendix C-7, Low Income Home Energy Assistance Program Income and Resource Level by Household Size. Income and resource criteria for ECAP are the same as for heating assistance found in OAC 340:20-1-11 with the exception of garnishment or recoupment of an overpayment. For ECAP, the garnishment or recoupment amount of income, other than OKDHS benefits, is subtracted to arrive at net income.

(B) The household must have had service discontinued or terminated by the seasonal primary energy supplier, or received:

(i) notice of a scheduled cut-off within 72 hours;

(ii) notice of a refusal to provide additional energy needs by the supplier when supply of fuel will be depleted within 72 hours or less; or

(iii) information regarding fee for a new connection.

(C) For a household to be eligible for ECAP, some precipitating factor must exist which caused the household's inability to pay their energy bill. The worker must ascertain why the energy bill has not been paid. ■ 3 Factors preventing payment of the energy bill include, but are not limited to, situations causing the household to make a choice between paying the energy bill and:

(i) purchasing sufficient food for the household;

\_\_\_\_\_ paying for emergency situations such as medical expenses or disaster recovery; or

(iii) providing clothing for children in the household.

(D) The worker must verify that the energy crisis need cannot be met by available income and liquid resources, even if income and liquid resources are equal to or below the standard.

(E) If the energy supplier refuses to establish or restore service for the amount of the ECAP payment, combined with whatever other resource is available or can be developed, the ECAP payment cannot be authorized.

(F) In instances where the maximum amount of ECAP and other available emergency programs do not meet the crisis, the case must be documented as having a feasible plan for maintaining or restoring service before an ECAP payment can be authorized.

**(2) Administrative procedures.**

(A) The authorized benefit for ECAP is limited to a one-time-only payment for the amount necessary to connect, restore, or maintain energy service to the household. ■ 4

(B) OKDHS makes payments for crisis assistance directly to energy suppliers

with rare exceptions. ■ 5

(C) The authorized benefit cannot include the cost of propane or butane tank delivery.

(D) Payment may only be authorized for the seasonal primary source of energy, although it is possible for the primary energy source to change in some situations. If an interim period of ECAP assistance is implemented, the client may choose the primary energy source.

(E) If a cooling program is implemented, payment is only authorized for the primary energy source for cooling. [OAC 340:20-1-10(b)]

## **INSTRUCTIONS TO STAFF 340:20-1-17**

Revised 6-1-08

- 1. Verification of crisis situations is recorded in the case record. All Low Income Home Energy Assistance (LIHEAP) forms are filed in chronological order in the LIHEAP section of the case record.**
- 2. Following verification of the crisis and determination of eligibility, the certifying worker:**
  - (1) contacts the fuel supplier as soon as possible to request delivery of fuel;**
  - (2) completes Form 08LH003E, Notice of Eligibility For Energy Crisis Assistance, listing the appropriate benefit amount from the Estimated Benefit Level Matrix;**
  - (3) e-mails or faxes the completed Form 08LH003E to the supplier; and**
  - (4) documents in detail the life-threatening decision in the case record.**
- 3. Human services center (HSC) staff must use discretion in determining what constitutes good cause for a household not paying the utility bill. Any practical reason is acceptable. The Family Support Services Division (FSSD) Low Income Home Energy Assistance Program (LIHEAP) Section is available for consultation when HSC staff need assistance regarding good cause.**
- 4. The worker advises the client and the energy supplier this is the only payment**

Oklahoma Department of Human Services (OKDHS) will make for this household for heating assistance.

5. For example, if no reliable wood supplier is available, it is permissible to send the payment directly to the eligible household by entering the client's name and Social Security number as that of the vendor. Such situations occur infrequently. The worker must use judgment in determining whether the client is a more reliable payee than any supplier available.