

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

Fall 2014



### **The "Heat and Eat" Policy in Michigan** **By Frances Carley, Fiscal Analyst**

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#### **Summary**

The State of Michigan recently ended its participation in what is known as the "Heat and Eat" policy. As a result, approximately 18.2% of the Food Assistance Program (FAP) cases will see an average decrease in their monthly food benefits of \$76.73.<sup>1</sup> While many states are choosing to continue the policy under new Federal guidelines that increased the program costs, that approach in Michigan could result in a reduction in the amount of Federal funding that is available for low-income heating and energy assistance.

#### **Background on Michigan's Heat and Eat Policy**

During the economic downturn in 2010, Michigan began participating in the Heat and Eat policy, also known as \$1 Low-Income Home Energy Assistance Program (LIHEAP). When changes to Federal funding requirements took effect in Michigan on May 1, 2014, the Department of Human Services (DHS) began to phase the policy out.

The State had used the Heat and Eat policy to maximize food assistance payments. Statewide, it increased the amount of Federal food assistance that was available to Michiganders by approximately \$146.4 million annually. The policy allowed the DHS to provide \$1 in LIHEAP funding to households receiving FAP benefits so that they could claim additional Federal funding for food assistance each month. From 2010 to 2014, the State spending plans had allocated up to \$1.0 million of Federal LIHEAP funding for Heat and Eat. Actual spending per year was between \$400,000 and \$475,000.

Under current Federal law, however, the DHS would have to provide more than \$20 in LIHEAP funding to households receiving FAP benefits in order for them to obtain additional food assistance (as explained in detail below). The Heat and Eat policy is being phased out, as the effective dates will vary by case and will depend on the FAP redetermination date for each case. Many FAP recipients who do not qualify for the expanded benefits have begun to be affected by the reductions.

#### **Federal Funding for the Heat and Eat Policy**

The Heat and Eat policy used two sources of Federal funding: the Low-Income Home Energy Assistance Program and the Supplemental Nutrition Assistance Program.

Low-Income Home Energy Assistance Program: The State receives Federal block grant funding for heating and energy assistance through LIHEAP. As a block grant, LIHEAP funds are capped at a given amount each year. The annual appropriation to the State has varied over the past five years due to decisions made at the Federal level, some of which were in response to the economic downturn.

Figure 1 displays the State's annual LIHEAP spending since fiscal year (FY) 2006-07 and the fluctuation in the availability of funds. Before the economic downturn, the annual block grant spending totaled \$111.9 million. By FY 2009-10, the availability of additional Federal LIHEAP funding had peaked, which made it possible for the State's spending to more than double. While the State's projected appropriations in FY 2013-14 and FY 2014-15 are still more than 30.0% greater

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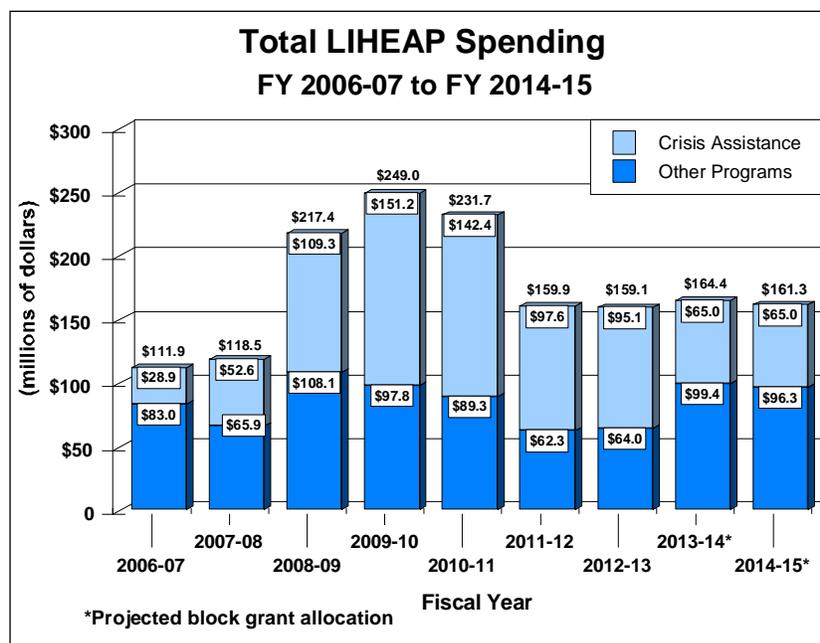
<sup>1</sup> Data provided by the Michigan Department of Human Services.



than FY 2006-07 levels, the amount of Federal funding that was appropriated nationwide is less than half of the amount that was available at the peak in FY 2009-10.<sup>2</sup> The Federal funding is expected to continue to decline.

The total amount of LIHEAP block grant funding that Michigan received in FY 2013-14 was \$164.4 million. At \$156.3 million, the State's FY 2013-14 year-to-date spending is lower than the amount available. The end-of-year book-closing adjustments have not yet been finalized, however, so it is unclear whether the State will have excess LIHEAP funding available to fund additional program objectives, such as Heat and Eat, or to carry forward into FY 2014-15. While the enacted FY 2014-15 State budget includes \$175.0 million in LIHEAP funding, the projected total block grant is \$161.3 million.<sup>3</sup>

**Figure 1**



**Source:** MAIN and Department of Human Services Trend Reports

The State has used LIHEAP funding to support several energy programs for low-income individuals: energy crisis assistance, Heat and Eat, Home Heating Credit, Michigan Energy Assistance Program, and weatherization, as well as administrative overhead costs.<sup>4</sup> Figure 1 shows that much of the LIHEAP funding is directed to crisis assistance, which primarily helps low-income residents with heating and energy bills to avoid shutoffs during the winter months.

<sup>2</sup> Federal LIHEAP funding totaled \$8.5 billion in FY 2009-10, and \$3.6 billion in FY 2013-14. "Low-Income Energy Programs Funding History 1977-2014", Department of Health and Human Services LIHEAP Clearinghouse. [http://liheap.ncat.org/Funding/energyprogs\\_hist.htm](http://liheap.ncat.org/Funding/energyprogs_hist.htm).

<sup>3</sup> Part of the funding has been released in the LIHEAP Initial Continuing Resolution Release of Block Grant Funds. <http://www.acf.hhs.gov/programs/ocs/resource/liheap-2014-cr-release>.

<sup>4</sup> Previous Senate Fiscal Agency *State Notes* articles on low-income energy assistance provide additional information on other energy programs and sources of funding: "State Faces Reduced Funding for Low-Income Energy Assistance Programs in Winter 2011-12" (Fall 2011 issue), and "Development of the Michigan Energy Assistance Program and Low-Income Energy Assistance Fund" (Winter 2014 issue). <http://www.senate.michigan.gov/sfa/Publications/Notes/notes.html>.

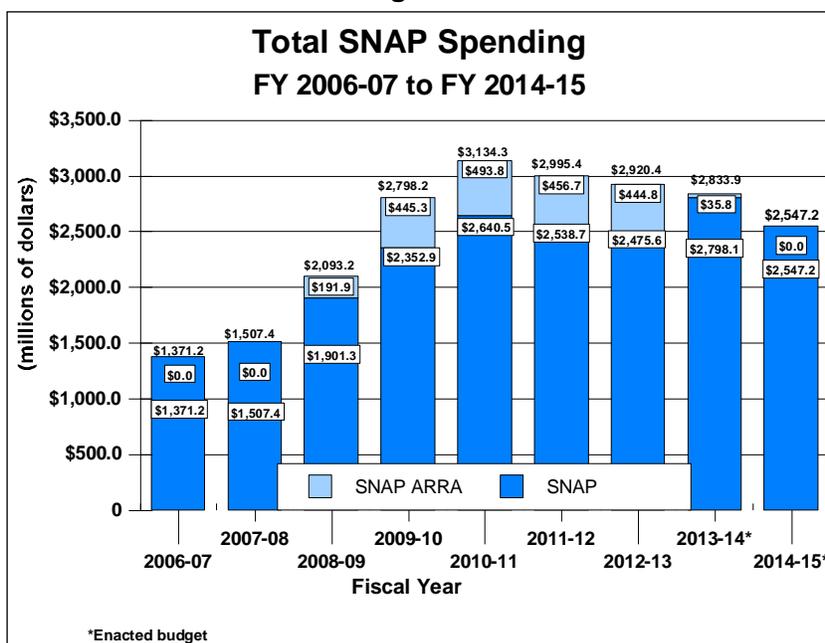


When Federal funding peaked in FY 2009-10, the average monthly caseload for energy crisis assistance was 31,662 cases with a monthly cost of \$15.1 million. The average payment for each case receiving crisis assistance was \$334. In FY 2013-14, the year-to-date monthly caseload average is 16,467 at an average monthly cost of \$6.0 million. The average benefit for each case receiving crisis assistance is \$268.<sup>5</sup> The decline in the crisis assistance caseload is due to several factors, such as changes in program eligibility, the launch of an energy self-sufficiency program, and the reduced availability of Federal funding.

Supplemental Nutrition Assistance Program: The Supplemental Nutrition Assistance Program (SNAP) is the Federal food assistance program, which is provided to the states through the U.S. Department of Agriculture. SNAP is commonly referred to as food stamps.<sup>6</sup> The Federal government determines most of the eligibility requirements and payment levels for individuals who are enrolled in the State's Food Assistance Program in order to receive SNAP assistance.

Figure 2 shows that the availability of Federal SNAP funding peaked in Michigan in FY 2010-11 at \$3.1 billion, an increase of 129.0% over pre-economic downturn funding levels in FY 2006-07. This increase is partially due to an increased caseload. At the peak in FY 2010-11, the average monthly FAP caseload was 967,566 and each case received an average payment of \$270 per month. In FY 2013-14, the year-to-date average monthly FAP caseload is 874,799 (or 1,685,071 individuals, 41.0% of whom are children), a decrease of approximately 9.0%. The average case currently receives \$245 per month.<sup>7</sup>

**Figure 2**



Source: MAIN

<sup>5</sup> Michigan Department of Human Services Trend Reports.

<sup>6</sup> The term "food assistance" is more technically accurate than "food stamps", however, as it is used in Federal law.

<sup>7</sup> Michigan Department of Human Services Trend Reports.



Part of the increased funding came from the American Recovery and Reinvestment Act (ARRA). This funding became available in FY 2008-09 and provided additional monthly assistance to recipients. The FY 2014-15 enacted budget for the DHS includes \$2.5 billion in SNAP funding, which is lower than the peak levels, yet 86.0% higher than FY 2006-07 levels.

**Poverty Rate in Michigan**

The increase in Federal funding during the economic downturn corresponded to an increase in the poverty rate in the State. For reference, the Federal poverty level for a family of four was \$20,000 in 2006; \$22,050 in 2010; and \$23,550 in 2013.<sup>8</sup>

Table 1 demonstrates that the poverty rate in Michigan increased more rapidly than the national average from 2006 to 2013.

**Table 1**  
**Comparison of Poverty Rate**

Year	Michigan	Nationwide
2006	13.5%	13.3%
2010	16.8%	15.3%
2011	17.5%	15.9%
2013	17.0%	15.8%

**Source:** U.S. Census Bureau, American Community Surveys<sup>9</sup>

**Standard Utility Allowance**

The Standard Utility Allowance (SUA) in the Food Security Act of 1985 allowed the states to claim additional SNAP assistance for households that received any amount of LIHEAP funding. In effect, the states were able to provide LIHEAP payments in any amount, including \$1, to households in order to draw down additional monthly food assistance payments for SNAP cases that otherwise would not have qualified for the additional assistance.

In order to determine the amount of SNAP assistance for which a case is eligible, states are allowed to use various income deductions. The monthly food assistance payment that is provided to a case will increase as income decreases (or as the number of income deductions increases). Deductions might include excess medical expenses, earned income, dependent care, and utility and heating costs. The Federal Food and Nutrition Service (FNS) approves the income deductions that states use to determine the payment levels. The Federal government allows states to use a standard deduction for heating and utility costs, in order to simplify the administrative process. Under previous Federal law, the State was able to apply an automatic standard deduction for heat and utilities (known as the Standard Utility Allowance, or SUA) to all cases that received any amount of LIHEAP. This standard deduction resulted in approximately \$76.73 more per month in food assistance for 18.2% of the FAP caseload, which allowed the households to spend earned income on other needs, such as rent and utilities.

<sup>8</sup> "HHS Poverty Guidelines", Department of Health and Human Services. [http:// aspe.hhs.gov/poverty](http://aspe.hhs.gov/poverty).

<sup>9</sup> "Percentage of People With Income Below Poverty Level in the Past 12 Months by State: 2000 to 2012", U.S. Census Bureau. <http://www.census.gov/prod/2013pubs/acsbr12-01.pdf>. Also, "Number and Percentage of People in Poverty in the Past 12 Months by State and Puerto Rico: 2012 and 2013", U.S. Census Bureau. <http://www.census.gov/content/dam/Census/library/publications/2014/acs/acsbr13-01.pdf>.



More than 81.0% of the State's FAP recipients are eligible for the standard utility deduction under both the old and the new rule. Some recipients, however, live in rental homes where heat and utilities are not separate expenses and, rather, are rolled into the monthly rent payment. In these cases, many recipients do not have documentation showing that they pay for these expenses. Some renters retain eligibility for the SUA if their landlords provide a letter indicating that they pay excess heating or cooling costs as part of their rent payments. Under previous Federal law, the State had implemented an automatic SUA for all cases, including these renters. These households will not necessarily be eligible for the standard deduction in the future, however.

### **Agricultural Act of 2014**

With the changes implemented in the Agricultural Act of 2014, which went into effect in Michigan on May 1, 2014, the State will no longer automatically apply the SUA to all FAP cases. This Act requires a minimum level of over \$20 in LIHEAP assistance in order for households to claim an income deduction for utility costs when SNAP benefits are calculated.

The Supplemental Nutrition Assistance Program was reauthorized as part of the Agricultural Act of 2014, which affected some of the rules regarding eligibility, benefits, and administration. Section 4006 states: "[I]f a State agency elects to use a standard utility allowance that reflects heating and cooling costs, the standard utility allowance shall be made available to households that received a payment, or on behalf of which a payment was made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if in the current month or in the immediately preceding 12 months, the household either received such a payment, or such a payment was made on behalf of the household, that was greater than \$20 annually, as determined by the Secretary."

With the change in Federal statute, the Heat and Eat policy is in question. For example, the Chairperson of the U.S. Senate Committee on Agriculture, Nutrition & Forestry, Michigan Senator Debbie Stabenow, characterized the Heat and Eat policy on the Committee website in the following way: "The 2014 Farm Bill achieves virtually all of its \$8 billion in nutrition program savings by addressing a program misuse, commonly referred to as 'heat and eat,' whereby a small number of states are artificially inflating some people's food assistance benefits by **listing a utility bill they don't actually have** on their food assistance applications [emphasis in original]."<sup>10</sup>

Additionally, the DHS has cited a number of concerns regarding eligibility standards in Federal statute that may conflict with the Heat and Eat policy. First, Section 2602 of the Low-Income Home Energy Assistance Program Act of 1981 authorizes grants to states in order to "assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs". The concern is that the Heat and Eat policy would provide LIHEAP funding to households with no actual heating costs. Next, Federal LIHEAP eligibility criteria allow payments for those who are at 150% of the Federal poverty level, while SNAP recipients may qualify for assistance if their income is at 200% of

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<sup>10</sup> <http://www.ag.senate.gov/newsroom/press/release/2014-farm-bill-addressing-misuse-protecting-food-assistance>



the Federal poverty level. Other concerns include potential audit findings due to these statutory conflicts, as well as possible administrative complications.<sup>11</sup>

Nonetheless, the Agricultural Act of 2014 does permit the states to provide a minimum \$20.01 LIHEAP payment for SUA eligibility, rather than eliminate the option entirely. Additionally, the Federal government had reviewed and approved Michigan's annual LIHEAP State Plan, which included the Heat and Eat policy, for several years, declining to reject the proposal based on any of the concerns that were cited. Despite the outstanding questions, some states are continuing the policy, while others have discontinued it.

### **Heat and Eat in Other States**

Previously, 16 states and the District of Columbia had used some variation of a Heat and Eat policy in order to increase SNAP benefits for some households.<sup>12</sup> The states were California, Connecticut, Delaware, Maine, Massachusetts, Michigan, Montana, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin. New Hampshire had implemented a modified version of the program.<sup>13</sup>

Based on the most recent available information, four of the 16 states will not continue the program: Michigan, New Hampshire, New Jersey, and Wisconsin. The remaining 12 states and the District of Columbia will use various mechanisms to continue the program, including updating policy, changing state statute, or increasing General Fund/General Purpose (GF/GP) funding.<sup>14</sup> The various implementation paths suggest that the states are not in agreement on how the Federal rules and statutes should be applied.

Some examples suggest that the programs will apply the SUA only to cases that otherwise would not qualify. For example, at approximately 1.7 million, New York's food assistance caseload is much higher than Michigan's but the program is tailored to assist just 300,000 households at a cost of \$6.0 million.<sup>15</sup>

Similarly, California has a food assistance caseload of more than 2.0 million, yet the budget includes funding to continue the SUA for just 320,000 households. California will implement a variation on the

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<sup>11</sup> Another potential conflict that was not cited by the DHS is in U.S. Code, Title 7, Chapter 51, Section 2014, which defines eligible households. The section states that the SUA cannot be used for a household that "does not incur a heating or cooling expense, as the case may be;" or for households that reside in public housing that uses central meters. This rule potentially could conflict with any attempts to provide the SUA to households where residents are renting and also do not have some kind of documentation of unique heating or cooling expenses.

<sup>12</sup> Aussenberg, Randy Alison and Perl, Libby. *The 2014 Farm Bill: Changing the Treatment of LIHEAP Receipt in the Calculation of SNAP Benefits*. Congressional Research Service, 2014. [http://www.ncsl.org/Portals/1/Documents/cyf/2014FarmBill\\_LIHEAP.pdf](http://www.ncsl.org/Portals/1/Documents/cyf/2014FarmBill_LIHEAP.pdf).

<sup>13</sup> *A New Framework for Heat and Eat: LIHEAP and SNAP After the 2014 Farm Bill*. LIHEAP Clearinghouse Issue Brief, August 2014. <http://www.liheap.ncat.org/pubs/LCIssueBriefs/heateat/HeatEat.pdf>.

<sup>14</sup> Mendoza, Gilberto Soria. *Heat and Eat and SNAP Changes in the 2014 Farm Bill*, National Conference of State Legislatures, 2014. <http://www.ncsl.org/research/human-services/-heat-and-eat-and-snap-changes-in-the-2014-farm-bill.aspx#HEAT AND EAT>.

<sup>15</sup> Cuomo, Andrew M. *Governor Cuomo Announces New York State Will Preserve \$457 Million in Snap Benefits for 300,000 Households*, February 25, 2014. <https://www.governor.ny.gov/press/02252014-snap-benefits>.



Heat and Eat policy, funding it with GF/GP dollars rather than LIHEAP funds. This approach will maintain the amount of funding that is available for heating and cooling assistance. The FY 2014-15 enacted budget for the State of California included \$10.5 million GF/GP for the State Utility Assistance Subsidy. This new state-funded energy assistance program will offset the LIHEAP funding that is designated to pay the \$20.01 minimum for extended food assistance. The state estimates that the program will increase household monthly food budgets by an average of \$62.<sup>16</sup>

In contrast, Pennsylvania's approach suggests that the SUA will be applied to every LIHEAP household, as opposed to only the cases that stand to lose benefits. Pennsylvania estimates that \$8.0 million in LIHEAP funding will serve 400,000 households. The average monthly increase in SNAP benefits will be in the range of \$60 to \$65.<sup>17</sup> Pennsylvania's food assistance caseload is similar in size to Michigan's. In July 2014, Pennsylvania served 898,623 cases.

### **Michigan's Policy Change and Impact**

The State of Michigan's decision to discontinue funding for the Heat and Eat policy will affect approximately 18.2% of the total FAP caseload, or approximately 159,000 cases. The FY 2013-14 average monthly FAP caseload is 873,048. The monthly reduction in benefits for the cases that no longer qualify for the SUA will vary based on the number of people in the case, with an average reduction of \$76.73. The estimated total annual reduction in SNAP funding throughout the State could be as much as \$146.4 million, or 5.0% of the total \$2.5 billion projected funding in FY 2014-15.

The Department of Human Services currently estimates that the costs to continue the policy would be \$18.5 million.<sup>18</sup> This estimate assumes that \$21 would be provided to every FAP case (873,048) rather than every LIHEAP household (approximately 450,000). Using this estimate, the result could be that as many as 69,000 fewer payments would be made for energy crisis assistance or energy self-sufficiency services through the Michigan Energy Assistance Program, which are funded by LIHEAP revenue. As previously discussed, however, the states that are continuing the Heat and Eat policy are approaching the SUA eligibility from different methods.

If Michigan were to apply the SUA in a way that was similar to the approaches in New York or California, the costs would be much lower than this estimate.<sup>19</sup> If the 18.2% of FAP cases that otherwise will lose the extended benefits received \$21 to qualify for the SUA, the costs would be approximately \$3.3 million. In this scenario, the result could be that approximately 12,300 fewer payments would be made for low-income energy assistance.

If Michigan were to apply the SUA to LIHEAP households in a way that was similar to Pennsylvania's program, the costs would fall in the middle of the other estimates. It would cost approximately \$9.5 million to provide 450,000 households with \$21. This estimate also aligns with the previous

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<sup>16</sup> California Enacted State Budget Summary, 2014-15. Health and Human Services Budget.  
<http://www.ebudget.ca.gov/2014-15/pdf/Enacted/BudgetSummary/HealthandHumanServices.pdf>.

<sup>17</sup> Buhrig, Cathy. *The SNAP LIHEAP Connection*, Pennsylvania Department of Public Welfare, 2014.  
<http://liheap.ncat.org/pubs/LCIssueBriefs/heateat/PAWelfareDept.pdf>.

<sup>18</sup> Early estimates from the DHS placed the total cost at approximately \$20.0 million to \$26.4 million (16.0% of the total LIHEAP block grant).

<sup>19</sup> LIHEAP assistance is provided per household, which means that the caseload is smaller than the food assistance caseload, as multiple food assistance cases can exist under the same roof. Section 2603 of the Low-Income Home Energy Assistance Act of 1981 defines "household" as "any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent".



expenditures under the State's \$1 LIHEAP program from 2010 to 2014, which affected between 400,000 and 475,000 households. If \$9.5 million were spent on Heat and Eat, the result could be that approximately 35,000 fewer payments would be made for low-income energy assistance.

As discussed above, over 81.0% of the FAP caseload will retain eligibility for the SUA and increased food assistance. Some clients will be able to verify that they have received more than \$20 in LIHEAP funds for other energy programs, such as the Home Heating Credit, in either the month of application or within the prior 12 months. This proof will allow them to qualify for the expanded food assistance benefits. Clients also may qualify by demonstrating sufficient heating or cooling expenses regardless of LIHEAP assistance.

### **Conclusion**

The Federal government is funding both LIHEAP and SNAP at higher levels than those available before the economic downturn. At the same time, the State's poverty rate has not yet returned to pre-economic downturn levels and remains higher than the nationwide average. While many states are opting to continue the Heat and Eat policy under the new Federal requirements, the DHS has expressed concerns regarding possible conflicts with Federal statute. In order to continue the program at the previous levels, providing \$21 rather than \$1 to 450,000 households, the State would have to spend approximately \$9.5 million. While the caseload for energy crisis assistance continues to decline, possibly leaving the State with unspent funding at the end of the year, the Federal LIHEAP funding also is beginning to decline. If Michigan were to continue the Heat and Eat policy at the increased cost, this decision could result in a reduction in the amount of funding that is available for low-income energy assistance programs.