

Secretary in accordance with procedures established under section 1397a(a)(6) of this title (as such procedures were in effect on August 12, 1981) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

(Pub. L. 97-35, title XXVI, §2603, Aug. 13, 1981, 95 Stat. 894; Pub. L. 97-115, §16, Dec. 29, 1981, 95 Stat. 1609; Pub. L. 98-558, title VI, §602, Oct. 30, 1984, 98 Stat. 2890; Pub. L. 103-252, title III, §§304(b), 311(c)(2), May 18, 1994, 108 Stat. 658, 662; Pub. L. 105-285, title III, §§303, 304(a), Oct. 27, 1998, 112 Stat. 2756; Pub. L. 110-234, title IV, §4002(b)(1)(A), (B), (2)(EE), May 22, 2008, 122 Stat. 1095-1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(A), (B), (2)(EE), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

#### REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in par. (1)(E), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in par. (1)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. Title XVI of the Act is classified generally to subchapter XVI (§1381 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

#### CODIFICATION

In par. (1), "August 12, 1981" substituted for "the day before the date of the enactment of this Act", which date of enactment is Aug. 13, 1981.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Par. (1)(E). Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(EE), substituted "supplemental nutrition assistance program" for "food stamp program" and "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

1998—Pars. (1) to (3). Pub. L. 105-285, §304(a)(3), (4), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively. Former par. (3) redesignated (4).

Par. (4). Pub. L. 105-285, §304(a)(3), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Pub. L. 105-285, §303, substituted "The term" for "the term" and a period for the semicolon at end.

Pars. (5), (6). Pub. L. 105-285, §304(a)(3), redesignated pars. (4) and (5) as (5) and (6), respectively. Former par. (6) redesignated (8).

Pars. (7) to (11). Pub. L. 105-285, §304(a)(1), (2), added par. (7) and redesignated former pars. (6) to (9) as (8) to (11), respectively.

1994—Par. (1). Pub. L. 103-252, §304(b)(1), (2), added par. (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 103-252, §311(c)(2), which directed the substitution of "The" for "the" and a period for the semicolon at end, could not be executed because the word "the" and a semicolon did not appear in par. (2) after the redesignations by Pub. L. 103-252, §304(b)(1). See below.

Pub. L. 103-252, §304(b)(1), redesignated par. (1) as (2). Former par. (2) redesignated (4).

Par. (3). Pub. L. 103-252, §304(b)(3), added par. (3). Former par. (3) redesignated (5).

Par. (4). Pub. L. 103-252, §304(b)(1), redesignated par. (2) as (4). Former par. (4) redesignated (6).

Pars. (5) to (9). Pub. L. 103-252, §304(b)(1), redesignated pars. (3) to (7) as (5) to (9), respectively.

1984—Par. (1). Pub. L. 98-558, §602(a), struck out "intervention" after "energy crisis" and inserted "and other household energy-related emergencies" at the end.

Par. (4). Pub. L. 98-558, §602(b), substituted "the income poverty line as prescribed and revised at least annually pursuant to section 9902(2) of this title," for "the income poverty guidelines for the nonfarm population of the United States as prescribed by the Office of Management and Budget (and as adjusted annually pursuant to section 9902(2) of this title)".

1981—Pub. L. 97-115 designated par. (2)(A) as par. (2), substituted provisions including individuals and groups of individuals who are living together as one economic unit for whom residential energy is customarily purchased in the form of rent in the definition of household, for provisions including individuals who occupy a housing unit in such definition, and struck out par. (2)(B), which provided that for purposes of subpar. (A), one or more rooms shall be treated as a housing unit when occupied as a separate living quarters.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(EE) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### 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 1984 AMENDMENT

Amendment by Pub. L. 98-558 effective Oct. 30, 1984, see section 609(a) of Pub. L. 98-558, set out as a note under section 8621 of this title.

### § 8623. State allotments

#### (a) Amount; distribution, computation, etc.

(1)(A) Except as provided in subparagraph (B), the Secretary shall, from that percentage of the amount appropriated under section 8621(b) of this title for each fiscal year which is remaining after reserving any amount permitted to be reserved under section 8628a of this title and after the amount of allotments for such fiscal year under subsection (b)(1) of this section is determined by the Secretary, allot to each State an amount equal to such remaining percentage multiplied by the State's allotment percentage.

(B) From the sums appropriated therefor after reserving any amount permitted to be reserved under section 8628a of this title, if for any period a State has a plan which is described in section 8624(c)(1) of this title, the Secretary shall pay to such State an amount equal to 100 percent of the expenditures of such State made during such period in carrying out such plan, including administrative costs (subject to the provisions of section 8624(b)(9)(B) of this title), with respect to households described in section 8624(b)(2) of this title.

(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State's allotment percentage is the percentage which expenditures for home energy by low-income households in

that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98-139 shall have their allotments reduced to the extent necessary to ensure that—

(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this subchapter for fiscal year 1984 had been \$1,975,000,000, and

(B) any State whose allotment percentage out of funds available to States from a total appropriation of \$2,250,000,000 would be less than 1 percent, shall not, in any year when total appropriations equal or exceed \$2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of \$2,140,000,000.

(3) If the sums appropriated for any fiscal year for making grants under this subchapter are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for such fiscal year, the amount which all States will receive under this subchapter for such fiscal year shall be ratably reduced.

(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary.

**(b) Allotments to insular areas**

(1) The Secretary shall apportion not less than one-tenth of 1 percent, and not more than one-half of 1 percent, of the amounts appropriated for each fiscal year to carry out this subchapter on the basis of need among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. The Secretary shall determine the total amount to be apportioned under this paragraph for any fiscal year (which shall not exceed one-half of 1 percent) after evaluating the extent to which each jurisdiction specified in the preceding sentence requires assistance under this paragraph for the fiscal year involved.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this subchapter upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this subchapter, and which are consistent with the requirements of section 8624 of this title.

**(c) Energy crisis intervention**

Of the funds available to each State under subsection (a) of this section, a reasonable amount based on data from prior years shall be reserved until March 15 of each program year by each State for energy crisis intervention. The program for which funds are reserved by this subsection shall be administered by public or non-profit entities which have experience in admin-

istering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this subchapter,<sup>1</sup> experience in assisting low-income individuals in the area to be served, the capacity to undertake a timely and effective energy crisis intervention program, and the ability to carry out the program in local communities. The program for which funds are reserved under this subsection shall—

(1) not later than 48 hours after a household applies for energy crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits;

(2) not later than 18 hours after a household applies for crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation; and

(3) require each entity that administers such program—

(A) to accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served by such entity; and

(B) to provide to low-income individuals who are physically infirm the means—

(i) to submit applications for energy crisis benefits without leaving their residences; or

(ii) to travel to the sites at which such applications are accepted by such entity.

The preceding sentence shall not apply to a program in a geographical area affected by a natural disaster in the United States designated by the Secretary, or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974<sup>1</sup> [42 U.S.C. 5121 et seq.], for so long as such designation remains in effect, if the Secretary determines that such disaster or such emergency makes compliance with such sentence impracticable.

**(d) Allotments to Indian tribes**

(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing organization of an Indian tribe within the State that assistance under this subchapter be made directly to such organization; and

(B) determines that the members of such tribe would be better served by means of grants made directly to provide benefits under this subchapter;

the Secretary shall reserve from amounts which would otherwise be payable to such State from amounts allotted to it under this subchapter for the fiscal year involved the amount determined under paragraph (2).

(2) The amount determined under this paragraph for a fiscal year is the amount which bears the same ratio to the amount which would (but for this subsection) be allotted to such State under this subchapter for such fiscal year (other than by reason of section 8626(b)(2) of this title) as the number of Indian households described in subparagraphs (A) and (B) of section

<sup>1</sup> See References in Text note below.

8624(b)(2) of this title and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation bears to the number of all households described in subparagraphs (A) and (B) of section 8624(b)(2) of this title in such State, or such greater amount as the Indian tribe and the State may agree upon. In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to—

(A) the tribal organization serving the individuals for whom such a determination has been made; or

(B) in any case where there is no tribal organization serving an individual for whom such a determination has been made, such other entity as the Secretary determines has the capacity to provide assistance pursuant to this subchapter.

(4) In order for a tribal organization or other entity to be eligible for an amount under this subsection for a fiscal year, it shall submit to the Secretary a plan (in lieu of being under the State's plan) for such fiscal year which meets such criteria as the Secretary may by regulations prescribe.

**(e) Allotment of emergency funds**

Notwithstanding subsections (a) through (d) of this section, the Secretary may allot amounts appropriated pursuant to section 8621(e) of this title to one or more than one State. In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this subchapter or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.

(Pub. L. 97-35, title XXVI, §2604, Aug. 13, 1981, 95 Stat. 894; Pub. L. 98-558, title VI, §§603, 604, Oct. 30, 1984, 98 Stat. 2890; Pub. L. 99-425, title V, §§502(a), 503, 505(b), Sept. 30, 1986, 100 Stat. 973-975; Pub. L. 101-501, title VII, §703, Nov. 3, 1990, 104 Stat. 1258; Pub. L. 103-252, title III, §§304(c), 311(c)(3), May 18, 1994, 108 Stat. 659, 662; Pub. L. 105-285, title III, §§304(b), 305, Oct. 27, 1998, 112 Stat. 2757.)

REFERENCES IN TEXT

Public Law 98-139, referred to in subsec. (a)(2), is Pub. L. 98-139, Oct. 31, 1983, 97 Stat. 871, known as the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1984. For complete classification of this Act to the Code see Tables.

The Low-Income Energy Assistance Act of 1980, referred to in subsec. (c), probably means the Home Energy Assistance Act of 1980, which is title III of Pub. L. 96-223, Apr. 2, 1980, 94 Stat. 288, and which was classified generally to subchapter I of this chapter prior to repeal

by Pub. L. 97-35, title XXVI, §2611, Aug. 13, 1981, 95 Stat. 902. For complete classification of this Act to the Code, see Tables.

This subchapter, referred to in subsec. (c), was in the original "this Act" which was translated as reading "this title", meaning title XXVI of Pub. L. 97-35, as the probable intent of Congress.

The Disaster Relief Act of 1974, referred to in subsec. (c), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of this title. The 1974 Act was renamed "The Robert T. Stafford Disaster Relief and Emergency Assistance Act", and was substantially revised by Pub. L. 100-707, Nov. 23, 1988, 102 Stat. 4689. Section 102(b) of Pub. L. 100-707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The name of the Act was subsequently changed to the "Robert T. Stafford Disaster Relief and Emergency Assistance Act" by Pub. L. 106-390, title III, §301, Oct. 30, 2000, 114 Stat. 1572. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-285, §305(1), substituted "and the Commonwealth of the Northern Mariana Islands." for "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands."

Subsec. (c)(3)(B)(ii). Pub. L. 105-285, §305(2), substituted "applications" for "application".

Subsec. (e). Pub. L. 105-285, §305(5), redesignated subsec. (g) as (e).

Subsec. (f). Pub. L. 105-285, §305(3), struck out subsec. (f) relating to optional transfer of funds to block grants for community service programs, preventive health services, etc.

Subsec. (g). Pub. L. 105-285, §305(5), redesignated subsec. (g) as (e).

Pub. L. 105-285, §§304(b), 305(4), substituted "subsections (a) through (d) of this section" for "subsections (a) through (f) of this section" and "In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this subchapter or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection." for "In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the allotment pursuant to this subsection prior to releasing the allotted funds."

1994—Subsec. (b)(1). Pub. L. 103-252, §311(c)(3), inserted "of the United States" after "Virgin Islands".

Subsec. (g). Pub. L. 103-252, §304(c), added subsec. (g).

1990—Subsec. (f). Pub. L. 101-501 designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, substituted "in accordance with paragraph (2) a percentage" for "up to 10 percent", "or a combination" for "or any combination", and "subparagraphs (A), (B), and (C)" for "paragraphs (1), (2), and (3)", and added par. (2).

1986—Subsec. (a)(1)(A). Pub. L. 99-425, §505(b)(1), inserted "after reserving any amount permitted to be reserved under section 8628a of this title and" after "remaining".

Subsec. (a)(1)(B). Pub. L. 99-425, §505(b)(2), inserted "after reserving any amount permitted to be reserved under section 8628a of this title" after "therefor".

Subsec. (c). Pub. L. 99-425, §502(a), substituted “the capacity” for “and the capacity”, inserted “, and the ability to carry out the program in local communities”, and inserted provisions relating to hourly time periods in which the program must respond, application for benefits, and nonapplicability of the program to areas affected by a natural disaster or major disaster.

Subsec. (d)(2). Pub. L. 99-425, §503, substituted “and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation” for “in such State with respect to which a determination under this subsection is made”, inserted “, or such greater amount as the Indian tribe and the State may agree upon”, and inserted “In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph.”

1984—Subsec. (a)(2). Pub. L. 98-558, §604(a), amended par. (2) generally, substituting provisions relating to State allotment computation for former provisions which also related to computation of State allotment formulas and adding subpars. (A) and (B).

Subsec. (a)(4). Pub. L. 98-558, §604(b), added par. (4).

Subsec. (c). Pub. L. 98-558, §603(a), inserted “until March 15 of each program year” after “reserved” and inserted “The program for which funds are reserved by this subsection shall be administered by public or non-profit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this subchapter, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.”

Subsec. (d)(1). Pub. L. 98-558, §603(b), substituted “otherwise be payable” for “otherwise be paid” in provisions following subpar. (B).

Subsec. (e). Pub. L. 98-558, §603(c), struck out subsec. (e) which related to direct payments to households and State options.

Subsec. (f). Pub. L. 98-558, §603(d), substituted “the funds payable to it” for “its allotment”.

#### 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 1986 AMENDMENT

Amendment by section 502(a) of Pub. L. 99-425 effective Dec. 1, 1986, and amendment by sections 503 and 505(b) of Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-558 effective Oct. 30, 1984, see section 609(a) of Pub. L. 98-558, set out as a note under section 8621 of this title.

#### RULES FOR ENERGY CRISIS INTERVENTION

Pub. L. 99-425, title V, §502(b), Sept. 30, 1986, 100 Stat. 973, provided that: “Not later than 60 days after the date of the enactment of this Act [Sept. 30, 1986], the Secretary of Health and Human Services shall issue rules to carry out the amendments made by subsection (a) [amending this section].”

### § 8624. Applications and requirements

#### (a) Form; assurances; public hearings

(1) Each State desiring to receive an allotment for any fiscal year under this subchapter shall

submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will meet the conditions enumerated in subsection (b) of this section.

(2) After the expiration of the first fiscal year for which a State receives funds under this subchapter, no funds shall be allotted to such State for any fiscal year under this subchapter unless such State conducts public hearings with respect to the proposed use and distribution of funds to be provided under this subchapter for such fiscal year.

#### (b) Certifications required for covered activities

As part of the annual application required by subsection (a) of this section, the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subchapter to—

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State’s program under this subchapter including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this subchapter;

(2) make payments under this subchapter only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(ii) supplemental security income payments under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.];

(iii) supplemental nutrition assistance program benefits under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; or

(iv) payments under section 1315, 1521, 1541, or 1542 of title 38, or under section 306 of the Veterans’ and Survivors’ Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;