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GAO

United States General Accounting Office
Washington, DC 20548

Human Resources
Division

B-198839

SEPTEMBER 15, 1980

The Honorable Gaylord Nelson
United States Senate



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Dear Senator Nelson:

Subject: [Review of Selected Aspects of Low Income
Energy Assistance] (HRD-80-122)

This is in response to your January 10, 1980, letter, asking us to review the 1980 Low Income Energy Assistance Program, with particular concentration on the Special Energy Allowance paid to Supplemental Security Income (SSI) recipients. You were concerned about energy payments to SSI recipients in institutions or other places where custodial care is available, but who usually do not have direct or indirect responsibility for paying heating bills. You asked us to assess the number of unnecessary payments and the capacity of the Department of Health, Education, and Welfare 1/ to prevent them. We briefed your staff on our results, which also included limited work done on energy assistance payments to Aid to Families with Dependent Children (AFDC) recipients under this program. Our findings are summarized below and detailed in enclosure I.

The 1980 Low Income Energy Assistance Program established categorical eligibility 2/ for participants in the SSI program. States were given the option of also paying an energy allowance to AFDC recipients on a categorical basis. Payments were made

1/On May 4, 1980, a separate Department of Education was created. That part of the Department of Health, Education, and Welfare responsible for activities discussed in this report became the Department of Health and Human Services.

2/Categorical eligibility means eligible for assistance as a result of eligibility for SSI or AFDC.

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to SSI recipients without regard to their living arrangements or responsibilities for energy costs. Categorical eligibility was provided in legislation, and the legislative history does not specify or suggest that energy cost responsibility or proof of need be considered in determining eligibility or amount of payment. Energy assistance payments were made to:

- More than one individual living at the same residence.
- Individuals living in subsidized housing who were not responsible for home heating costs.
- Individuals in certain group living facilities where the extent of increased energy costs for heating, or their responsibility for these costs, was not clear.

The 1981 Low Income Energy Assistance Program, enacted on April 2, 1980 (Public Law 96-223), and regulations later published by the Department of Health and Human Services (HHS) address most of the problems under the 1980 program. The 1981 program will be administered by States according to their plans, as approved by HHS. Payments can only be made to, or on behalf of, eligible households rather than individuals, to offset the rising costs of home energy (only residential heating costs and cooling costs when medically necessary) that are excessive in relation to household income. Only one payment can be made for the same home energy costs of an eligible household and such payments can be made only when such households are vulnerable to home energy cost increases. ^{1/} Certain SSI recipients are eliminated from categorical eligibility.

Interim HHS regulations provide that households in public or subsidized housing that are not vulnerable to home energy cost increases cannot receive payments; however, payments may be made to operators of such housing for increased energy costs attributable to these households. Households involving group living arrangements must be screened for energy vulnerability, and certain parameters are established for determining how much such households should be paid.

^{1/}HHS interim regulations define "vulnerable to energy cost increases" as a household that is at least partly responsible for its own energy costs.

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It remains to be seen how effective the 1981 program will be. State plans implementing the 1981 program are not required to be submitted to HHS for review and approval until September 15, 1980. As agreed with your office, we do not plan to do any further work on the 1980 and 1981 Low Income Energy Assistance Programs at this time. However, we plan to review the 1981 program next year and will keep you informed of our work.

Sincerely yours,



Gregory J. Ahart
Director

Enclosure

LOW INCOME ENERGY ASSISTANCE

We received requests from seven Members of Congress asking us to review various aspects of the 1980 Low Income Energy Assistance Program. Most requests dealt with the Special Energy Allowance paid to Supplemental Security Income (SSI) recipients, but a few included direct or indirect references to the portion of the program administered by States. A common concern of the requesters was that payments may have been made to individuals who were not responsible for heat, fuel, or energy costs. Some situations cited were persons living in congregate care arrangements, such as nursing homes, boarding homes, or institutions, and persons living in public or subsidized housing.

1980 LOW INCOME ENERGY ASSISTANCE PROGRAM

Funding for the 1980 Low Income Energy Assistance Program was included in Public Law 96-126, dated November 27, 1979, which was an appropriation act for the Department of the Interior and related agencies. This act, along with amounts previously appropriated, provided \$1.6 billion for assistance as follows:

<u>Purpose</u>	<u>Amount</u> (millions)
The Energy Crisis Assistance Program (ECAP), administered by the Community Services Administration (CSA)	\$ 400
A special one-time energy allowance for recipients of SSI	400
Block grants to States to be distributed according to State plans approved by the Department of Health, Education, and Welfare (note a)	796
Federal administrative costs	<u>4</u>
Total	<u>\$1,600</u>

a/On May 4, 1980, a separate Department of Education was created. That part of the Department of Health, Education, and Welfare responsible for activities discussed in this report became the Department of Health and Human Services (HHS).

ECAP provided emergency assistance to households. Funds were to be used to pay for energy-related costs, but not for weatherization. These funds were for (1) payments to vendors and other suppliers of fuel, (2) lines of credit with utility/fuel vendors, (3) direct assistance to persons who paid fuel bills but faced a crisis (maximum \$50), and (4) emergency assistance in the form of goods or services (such as warm clothing, blankets, and emergency repairs). States were given flexibility in choosing the State administering agency and local delivery systems.

The Special Energy Allowance was paid by the Social Security Administration (SSA) to all recipients who were eligible for SSI in December 1979--except those living in Medicaid institutions who were specifically excluded in the legislation. Other categories of SSI recipients were not excluded because SSA did not have sufficient information to indicate recipients' living arrangements or energy responsibility.

Most of the SSI recipients' energy checks were sent on January 7, 1980--about 40 days after legislation appropriating funds. Almost \$391 million was paid to about 4 million recipients. The amounts paid to recipients were determined by formula and varied by State, ranging from \$34 to \$250 per recipient (the maximum payment allowable for an SSI recipient). The average payment was about \$97.

States were given several options in developing plans to distribute their energy assistance. These options included:

- Plan A - The HHS-developed uniform benefit plan for Aid to Families with Dependent Children (AFDC) recipients.
- Plan B - A uniform energy payment to assistance populations other than AFDC.
- Plan C - Transfer of funds to ECAP, administered by CSA.
- Plan D - A State-developed plan.

A variety of State plans were approved by HHS as indicated below:

<u>Plan</u>	<u>Number of States</u>
A	2
B	4
C	17
D	11
A and C	5
A and D	2
B and C	4
B and D	1
C and D	<u>4</u>
Total	<u>50</u>

Assistance under State plans was to be provided in the form of (1) payments to individuals or vendors or (2) a vendor line of credit. Assistance was to be provided to households with incomes below 125 percent of the poverty level. (This level is the same for all States except Alaska and Hawaii--the amount varies by family size and farm or nonfarm family.) Priority had to be given to households experiencing significant increases in heating costs over the prior years' level. States had to provide assistance to those who paid fuel bills directly and indirectly (i.e., renters). As of March 1980, HHS estimated that about \$729 million of the block grant funds had been expended.

1981 LOW INCOME ENERGY ASSISTANCE PROGRAM

Low income energy assistance for 1981 is provided by the Home Energy Assistance Act of 1980 (Public Law 96-223, April 2, 1980). Under this act, the Secretary of HHS may make grants to States in accordance with approved plans for providing assistance to eligible households so they can meet the rising costs of home energy.

Eligibility for benefits is limited to households where one or more individuals are eligible for AFDC, SSI, food stamps, or certain veterans' benefits or to households with income levels at or below the Lower Living Standard Income Levels determined by the Department of Labor. These income levels are established for various regions of the country and include different amounts for metropolitan and nonmetropolitan areas within them. They are adjusted for family size.

Benefit levels are to be determined by the States; however, payments can be made only to meet the rising cost of energy needed to provide heat--and cooling when medically necessary--in a residential dwelling for eligible households. Benefits may take the form of direct payments to households, or payments in kind (e.g., fuel deliveries).

The 1981 program legislation provides that States may not use more than 5 percent of the funds they receive for planning and administration. In unusual circumstances, such as "special geographic factors or acts of God," they may seek an additional 2-1/2 percent. Thus, the maximum they could use for planning and administration would be 7-1/2 percent of the total funds received.

The act authorizes the Secretary of HHS to waive requirements for all or part of a State plan if it is likely to assist in promoting the act's objectives.

SCOPE

We inquired into the congressional intent of the 1980 and 1981 Low Income Energy Assistance Programs and considered the potential impact of the 1981 program on the problems identified during our review of the 1980 program.

In reviewing the Special Energy Allowance to SSI recipients, we tried to identify, in New York and New Jersey, the extent to which recipients were either living together, including congregate care arrangements, or living in public/subsidized housing. We also tried to determine individuals' responsibility for energy costs. Our work included examining SSA records and speaking with SSA officials. We also discussed living arrangements and the Special Energy Allowance with State officials in New York and New Jersey.

We attempted to identify the extent to which AFDC recipients living in North Carolina public housing received energy assistance payments. Our work there included examination of State records and discussions with State, county, and housing authority officials.

The North Carolina program amounted to \$16.1 million--\$13.8 million for payments to AFDC households and \$2.3 million for ECAP administered by CSA. There were 76,724 energy assistance payments to AFDC families. Single child AFDC families got \$100, while AFDC families with more than one child got \$200.

LEGISLATIVE HISTORY

We examined the 1980 Low Income Energy Assistance Program legislation and legislative history and concluded that energy assistance payments made to SSI and AFDC recipients were intended by the Congress as an emergency measure to be made on a categorical eligibility basis. The legislative history does not specify or suggest that consideration be given to energy cost responsibility or individual proof of need in determining eligibility or amount of payment. In addition, there was no specific requirement that use of the funds be restricted to reimbursement of home heating and medically necessary cooling energy costs.

The 1981 low income energy assistance legislation and legislative history indicate that the Congress intended that eligibility again be determined on a categorical basis; however, payments are to be restricted to households responsible for paying rising home energy costs. The amount and distribution of benefits are to be determined by the States.

The key difference between the 1980 and 1981 programs is the unit for which benefits are intended. In 1980, eligibility was determined on an individual basis, especially payment to SSI and certain AFDC recipients. In 1981, the unit is the household. Household is defined in such a way as to restrict payments to those who are responsible for payment of rising home energy costs--only one payment can be made for the energy costs of a household. However, more people may receive benefits in 1981 than in 1980 because the income test used for establishing eligibility will be higher. For 1981, the Lower Living Standard Income Level will be used instead of the generally lower poverty level.

MOST PROBLEMS OCCURRING
IN 1980 ARE ADDRESSED
IN THE 1981 PROGRAM

In 1980 energy assistance payments were made to more than one recipient living at a particular residence, individuals living in subsidized housing who were not responsible for heating fuel costs, and individuals in group living facilities (such as boarding homes where the extent of increased heating costs, or their responsibility for these costs, was not clear).

Certain SSI recipients who were provided an energy payment in 1980 will not be eligible for an energy payment in 1981. Only one payment can be made for the same home energy costs. Nonvulnerable households in public/subsidized housing cannot be paid, but building operators of such housing may be paid for costs attributable to these households. Group living arrangements must be screened for energy cost vulnerability, and energy payments made to persons in such arrangements may not be more than the amount for a "similarly situated household."

Recipients in subsidized housing

SSI and AFDC recipients in subsidized housing received energy checks in 1980. We were unable to obtain nationwide data on the extent of recipients in subsidized housing because such data are not maintained. We contacted the New York City Housing Authority and the Charlotte Housing authority in North Carolina--the State's largest housing authority.

The New York City Housing Authority is responsible for about 175,000 subsidized units. Housing authority officials estimated that 25,700 housing units included at least one SSI recipient and said that these residents generally are not responsible for heating costs. Each SSI recipient in the State received a \$150 energy payment in 1980. Thus, about \$3.8 million was paid to New York City SSI recipients who were not responsible for heating costs.

In Charlotte, the largest city in North Carolina, there are almost 5,000 subsidized housing units, of which 1,500 had AFDC households. Consequently, this would mean at least \$150,000 was paid to AFDC recipients in subsidized housing (\$100 to a single child household times 1,500). The extent to which tenants pay for heating costs varied. In some cases, they pay for energy in excess of a specified amount.

Recipients in group living facilities

Residents of licensed group living facilities were among those who received SSI's 1980 Special Energy Allowance. Group living facilities included family-type homes, foster care homes for adults, private proprietary or nonprofit adult homes, and boarding homes. In New York and New Jersey, these individuals generally do not pay heating bills directly and their SSI benefits are usually accepted as payment for their room and board, according to State officials.

In New York, an estimated 29,000 SSI recipients, or about 8 percent of those recipients in the State eligible for a \$150 Special Energy Allowance, were residents of group living facilities registered with the State Department of Social Services. Some of the facilities had over 100 SSI recipients. The 29,000 SSI recipients were eligible for a total payment of about \$4.3 million. In New Jersey, we were told that an estimated 5,000 SSI recipients, or about 6 percent of those recipients in the State eligible for a \$185 Special Energy Allowance, were residents of boarding homes licensed by the State Department of Human Services. They were eligible for a total payment of about \$925,000.

In both New York and New Jersey the State social services agencies suggested that SSI residents share their energy allowance with facility operators. The New York agency suggested that \$100 be given to the operators. The New Jersey agency suggested giving \$70 to \$90 to operators, depending on the size of the facility. The suggested shares were based on the agencies' statewide estimates of average increased heating costs. Neither the extent to which residents gave some or all of their allowance to operators nor the actual fuel cost increases incurred by different operators are known.

Allegations of coercion by some operators demanding and getting residents to give them all of their allowance are being investigated in both States.

In the 1981 Low Income Energy Assistance Program, States are given flexibility in determining which households will be paid and how much. However, program regulations require that payments be made only to households vulnerable to energy cost increases. HHS regulations suggest that residents of group living facilities who share the burden of energy cost increases be screened to prevent energy assistance payments that total more than the amount for "similarly situated households." The regulations provide that payments can be set lower because residents are only partially vulnerable.

Other situations with more than one recipient at the same location

More than one Special Energy Allowance check was sent to some households in 1980. We could not determine how widespread this was because of the limited data available.

We used SSA computerized data on SSI checks sent to recipients living in New York and New Jersey in March 1980, to identify checks going to the same address. While these data showed street addresses to which several checks were sent, they did not always include an apartment number or other data needed to determine whether more than one check went to the same household. We did, however, find some situations where more than one check went to the same apartment. They included individuals with the same last name, different last names, or married couples with both parties eligible for SSI. Both members of an SSI couple received a separate energy check in 1980.

The 1981 legislation eliminates from categorical eligibility households containing certain SSI recipients who were eligible in 1980. These are disabled children receiving SSI who live with parents or in another household with reduced SSI benefits--about 431,500 recipients nationwide. SSA can identify these recipients for the States. Using these data, about \$41.8 million can be saved in energy assistance payments (431,500 recipients times \$97 average 1980 SSI energy payment).

The 1981 program limits energy payments to one per household. States must identify households where there is more than one eligible member. If the State chooses, SSA can identify the married SSI couples in that State. There are about 252,000 SSI couples nationwide. Using these data, at least \$24.4 million can be saved (252,000 married couples times \$97 average 1980 SSI energy payment).

PAYMENTS TO INELIGIBLES

Persons not eligible for SSI in December 1979 were not categorically eligible for the 1980 Special Energy Allowance. For the period April 1979 through December 1979, SSA estimated that about 4 percent of those receiving SSI were not eligible. However, since the percentage is an estimate based on a statistical sample, some of these ineligibles are not specifically identifiable. Because the same SSI system was used for paying the energy allowance, a similar 4-percent ineligibility rate may have been experienced. Applying this 4-percent rate to the total 4 million recipients receiving an average \$97 energy payment results in an estimated \$15.5 million overpayment (4 percent times 4 million times \$97).