

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

# DCF

## Department for Children and Families

**BULLETIN NO.:** 07-06F

**FROM:** Joseph Patrissi, Deputy Commissioner  
Economic Services Division

**DATE:** June 22, 2007

**SUBJECT:** Fuel Program Changes

**CHANGES ADOPTED EFFECTIVE** July 15, 2007

### INSTRUCTIONS

  X   **Maintain Manual - See instructions below.**  
       **Proposed Regulation - Retain bulletin**  
       **and attachments until you receive**  
       **Manual Maintenance Bulletin:**  
       **Information or Instructions - Retain**  
       **until \_\_\_\_\_**

### MANUAL REFERENCE(S):

2901	2907
2902	2908
2903	2911
2904	2912
2905	
2906	

In addition to various technical changes, this rule will simplify the administration of the seasonal fuel assistance program.

### Summary of Changes

#### **2901 Criteria Applied in Determining Fuel Household Membership and Eligibility**

Adds language to clarify residency. Applicant must live in Vermont, as their primary residence during any month(s) during the benefit period of November 1 through March 31.

Adds residents of college dormitories and other housing units provided by a college to the list of households ineligible for fuel assistance.

Technical changes to add manual references and correct department names.

### **2902 Application for Assistance**

Technical changes to correct department/division names

### **2903 Resources**

Defines how jointly held resources will be considered when determining eligibility.

### **2904 Income**

Technical and clarification changes to add clarifying words or phrases, add manual references and correct department name.

Adds foster care payments being made on behalf of a fuel household member to the list of unearned income to be considered when processing eligibility.

Adds in-kind income to the list of income exclusions.

### **2905 Verification**

Technical changes to correct name of the department

### **2906 Benefit Levels**

Since the proposed filing, because of comments made during the public comment period, the department is retaining the maximum benefit level table in the rules.

Technical changes for clarification

### **2907 Use of Payments to Certified Fuel Suppliers**

Clarifies that benefits may only be used for primary home heating fuel

### **2908 Changes in Household Circumstances**

Clarifies that any unused portion of a seasonal fuel benefit is required to be refunded to the State, by the fuel supplier, if all members of the household die or move out of Vermont.

Language change from “verify” to “notify” – when fuel suppliers transfer benefits to another supplier they are required to notify the Office of Home Heating Fuel Assistance.

## **2911 Recoupment**

Adds intentional program violation as a reason for recoupment of benefits.

Adds if overpayment is a result of an intentional program violation or fraud, the household will be disqualified from participating in the program until the overpayment has been repaid or for one fuel season.

## **2912 Fuel Supplier Certification**

Adds an additional criteria – requires the fuel supplier to bill for any crisis fuel deliveries within 30 days of the delivery.

### ***Comment Period***

No comments on the proposed rule were given at an oral hearing held April 23, 2007 at 1:00 p.m. in the Agency of Human Services Blue Room, DCF, State Office Complex, Waterbury, Vermont.

Written comments on the proposed rule were received by the April 30, 2007 comment deadline from the following organization:

Community of Vermont Elders (COVE)

As set forth below, the department has considered these comments and responds as follows:

**Comment:** We are concerned with the new language denominating individual retirement accounts (IRAs) as an included liquid asset. Has there been any consideration that this counters a public policy to encourage savings and/or that certain IRA withdrawals can result in penalties.

**Response:** This is not new language and is really a clarification to be consistent with the wording in the food stamp rules at 273.8 c 1. IRAs have always been counted as a resource in the fuel assistance program, as the current fuel rules language allows at 2903.2, by defining resources as “assets such as...but not limited to...”. As a result of discussion with the commenter, we have added further clarification to be clear that any penalties for early withdrawal will not be counted.

**Comment:** The maximum benefit table is required by 33 VSA 2604 to be developed by rules. It is problematic that the Department has suggested the table now be developed by procedure and has begun the rule making well before it enacted (or even introduced) the enabling law it needs (see H.545) to make this change. We do not understand the difficulty in promulgating this table annually by rule to ensure that the public process rights under the APA can continue.

**Response:** The department agrees and has made this change.

Comment: Also unclear if 2906.2 e is a change in policy. In the past these periodic adjustments to the payment rate have been successfully challenged under the APA by COVE and others, demonstrating that APA provided informed and needed transparency in the calculations of such important benefit setting adjustments. It is entirely possible for commenters to disagree with DCF's projections, which is changed, could result in significant additional fuel aid to needy Vermonters in any given heating season.

Response: 2906.2 e is not a policy change. The sidelining in the proposed rule was incorrect. With the retention of the maximum benefit table the lettering of the section will not change.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking go to the website of the Office of the Vermont Secretary of State at: <http://vermont-archives.org/apa/rules.html> or call Louise Corliss at 828-2863

For information on upcoming hearings before the Legislative Committee on Administrative Rules go to the website of the Vermont Legislature at: <http://www.leg.state.vt.us/schedule/schedule2.cfm> or call 828-5760.

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Vertical lines in the left margin indicate significant changes. Dotted lines at the left indicate changes to clarify, rearrange, correct references, etc., without changing content.

**Manual Holders:** Please maintain manuals assigned to you as follows.

**Manual Maintenance**

**Refugee - VHAP Rules**

<b><u>Remove</u></b>		<b><u>Insert</u></b>	
2901.1 P.3	(00-16F)	2901.1 P.3	(07-06)
2901.2 P.3	(00-16)	2901.2 P.3	(07-06)
2901.2 P.4	(03-16)	2901.2 P.4	(07-06)
2901.3	(03-16)	2901.3	(07-06)
2902	(03-16)	2902	(07-06)
2903	(03-16)	2903	(07-06)
Nothing		2903.3	(07-06)
2904	(03-16)	2904	(07-06)
2904.2 P.2	(03-16)	2904.2 P.2	(07-06)
2904.3	(00-16)	2904.3	(07-06)
2904.3 P.2	(99-16F)	2904.3 P.2	(07-06)
2905	(03-16)	2905	(07-06)
2905 P.2	(99-16F)	2905 P.2	(07-06)
2907.2	(02-29)	2907.2	(07-06)
2908	(03-16)	2908	(07-06)
2911	(01-20)	2911	(07-06)
2912 P.3	(03-16)	2912 P.3	(07-06)
2912 P.4	(02-29)	2912 P.4	(07-06)

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2901.1 Definitions (Continued)8. Elderly

Elderly is defined as age 60 or older.

9. Disabled

Disabled is defined as being eligible for and in actual receipt of social security, SSI/AABD, railroad retirement, or federal employee or other pension plan benefits, based on a determination that the recipient was and remains totally and permanently or 100 percent disabled; or being a beneficiary of Vermont Medicaid coverage due to categorical eligibility based on a determination that the beneficiary was and remains totally and permanently disabled.

10. Civil Union Partner and Civil Union

Civil union partner means one member of a same-sex couple who have entered into a civil union in accordance with 15 V.S.A. chapter 23 and whose civil union has not been legally dissolved. Civil union is the legal relationship established between two same-sex individuals pursuant to 15 V.S.A. chapter 23 and 18 V.S.A. chapter 106.

2901.2 Eligible Households

Households are potentially eligible for Fuel Program benefits provided they meet the criteria defined below.

1. Residency

Applicants must occupy a living unit or separate living quarters in Vermont, as their primary residence, and intend to occupy that living unit or separate living quarters or another living unit or separate living quarters in Vermont indefinitely in order to be eligible for fuel assistance, with the following exception: migrant workers will be determined eligible for fuel assistance if they meet all other applicable eligibility requirements. The standard for primary residence is the fuel household's or roomer fuel household's occupation (or, for new Vermont residents, the household's intent to occupy) of a living unit or separate living quarters, located in Vermont, as their primary residence during any month(s) during the benefit period of November 1 through March 31.

2. Income and Resources

Applicants must have total fuel household income and total fuel household resources that do not exceed the allowable maximums (Fuel Procedures Manual P-2905 A and Fuel Rules 2903.1). Total fuel household income and total fuel household resources are based on the combined countable income and combined countable resources, respectively, of the persons residing in the living unit or separate living quarters who are included in the fuel household or roomer fuel household.

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2901.2 Eligible Households (Continued)3. Fuel Household (Continued)

- (2) the relative provides reasonable compensation for his or her separate living quarters in the form of caretaker or companionship services, which shall not be measured by a monetary standard, that the relative provides to the elderly or disabled head of household, his or her elderly or disabled spouse, or his or her elderly or disabled civil union partner; or
- (3) the relative provides medically necessary personal care or homemaker services to an elderly or disabled person who resides in the living unit, provided that the recipient of these services is not the relative's spouse or civil union partner, minor daughter or son, the other parent of the relative's minor daughter or son, or the minor daughter or son of the other parent or the relative's spouse or civil union partner; or
- (4) the relative is in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families , or
- (5) the relative has been placed in the living unit by or through a program administered by the Department of Health, Division of Mental Health Services.

c. Other Persons Residing in the Living Unit (Including Relatives Not Addressed in a. or b. above)

All other persons residing in the living unit are included in the applicant's fuel household unless the head of household provides reasonable evidence (see section 2905) that the person qualifies for exclusion from the fuel household based on one or more of the following four criteria:

- (1) the person is a roomer (or roomer/boarder) who rents separate living quarters in the living unit and pays reasonable room rent (compensation) to the head of household or his or her spouse or civil union partner, for the separate living quarters; or
- (2) the person provides reasonable compensation for his or her separate living quarters in the form of caretaker or companionship services, which shall not be measured by a monetary standard, that the person provides to the elderly or disabled head of household, his or her elderly or disabled spouse, or his or her elderly or disabled civil union partner; or

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2901.2 Eligible Households (Continued)3. Fuel Household (Continued)

- (3) the person provides medically necessary personal care or homemaker services to an elderly or disabled person residing in the living unit, provided that the recipient of these services is not the person's spouse or civil union partner, minor daughter or son, the other parent of the person's minor daughter or son, or the minor daughter or son of the other parent or the person's spouse or civil union partner; or
- (4) the person is in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families or
- (5) the person has been placed in the living unit by or through a program administered by the Department of Health, Division of Mental Health Services.

d. Roomer (or Roomer/Boarder) Fuel Household (for purposes of qualifying for receipt of fuel assistance benefits)

A roomer (or roomer/boarder) fuel household (as defined in 2901.1, #6) that occupies exclusively one or more rooms within a living unit as separate living quarters must pay reasonable room rent (compensation), weekly or monthly, for its separate living quarters in order to be potentially eligible for fuel assistance. In-kind payment for the separate living quarters, regardless of its equivalent value, does not constitute reasonable room rent. In addition, the roomer (or roomer/boarder) fuel household's total countable income and total countable resources shall not exceed the allowable maximums (Fuel Procedures Manual P-2905 A and Fuel Rules 2903.1).

e. Public, Subsidized, or Section 8 Housing Program

Households that participate in a public, subsidized, or Section 8 housing program are potentially eligible for fuel assistance provided they meet all applicable eligibility criteria. However, public, subsidized, or Section 8 households will remain potentially eligible only as long as a requirement to provide LIHEAP benefits to those housing program residents exists under federal law.

Reach Up and SSI/AABD recipients are not automatically deemed to be participating in a public, subsidized, or Section 8 housing program solely as a consequence of receiving Reach Up or SSI/AABD benefits.

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2901.3

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2901.3     Excluded Households

The following subsections specify households that are ineligible for fuel assistance.

1. Residents and operators of institutional homes and centers, including but not restricted to:

Therapeutic Treatment Centers	Nursing Homes
Religious and Fraternal Homes	Maternity Homes
Community Care Homes (also known as Residential Care Facilities)	Halfway Homes
Drug, Alcohol and Rehabilitation Centers	

2. Operators of commercial rooming houses with four or more unrelated roomers.

3. Residents of college dormitories or other housing units provided by the college.

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2902

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**2902**      Application for Assistance

Eligibility for Fuel Program assistance will be determined annually for the ensuing heating season after receipt of a completed and signed application submitted to the Office of Home Heating Fuel Assistance within the Economic Services Division (ESD) of the Department for Children and Families (DCF).

The application must indicate all persons residing in the living unit, and the income and resources of all household members must be reported. For households that make payments for their heat directly to a fuel supplier, the application must include the identification of the supplier of the household's primary heating fuel. In addition, as required by 33 V.S.A. Chapter 26, applicants must consent to receive services from the home weatherization assistance program as a condition of receipt of benefits. The head of household must sign the application to certify that information on all household members is correct.

**2902.1**      Application Period

Households may apply for Fuel Program benefits during the application period. Applicants will be encouraged to apply during the primary application period to ensure that they receive the full season's benefit in as timely a manner as possible. Applicants must submit applications during the specified application period to have their eligibility determined for the Fuel Program for all or a portion of the ensuing heating season of November 1 through March 31 (see section 2906).

1. The primary application period begins on July 15 and ends on August 31. Applications must be received by the last day of the primary application period by the Office of Home Heating Fuel Assistance or by any of the twelve DCF, ESD district offices. If mailed, receipt of the application will be the date of the postmark. If August 31 falls on a Saturday or a Sunday, the primary application period will end on the first business day in September.
2. The secondary application period begins on September 1 and ends on the last day of February. Applications must be received by the last day of the secondary application period by the Office of Home Heating Fuel Assistance or by any of the twelve DCF, ESD district offices. If mailed, receipt of the application will be the date of the postmark. If the last day of February falls on a Saturday or a Sunday, the secondary application period will end on the first business day in March.

By agreement between the Economic Services Division of the Department for Children and Families and the Department of Disabilities, Aging and Independent Living, certain designated Area Agencies on Aging will distribute applications and information to individuals who are age 60 or older or disabled and will assist in the completion of applications for individuals needing such assistance.

By agreement between the Economic Services Division and the Office of Economic Opportunity, both within the Department for Children and Families, designated Community Action Agencies may perform outreach, distribute applications, and assist in the completion of applications.

Only the Director of the Office of Home Heating Fuel Assistance or his or her designee(s) may determine eligibility and authorize payments.

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2903

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2903     Resources2903.1     Maximum Allowable Resources

Resources belonging to all household members shall be considered together in determining eligibility for all Fuel Program benefits.

Resource maximums for Fuel Program benefits shall be:

- \$3,000 for households of one or more members at least one of whom is elderly.
- \$2,000 for all other households.

The household's resources shall be considered at the time of application. Households in which all members receive Reach Up, food stamps, (excluding those categorically eligible for food stamps due to the receipt of EITC), or SSI/AABD automatically meet the resource test for eligibility for Fuel Program benefits.

2903.2     Definition of Resources

Resources include all liquid assets such as, but not limited to, cash, checking and savings account balances, stocks and bonds, certificates of deposit, lump sum payments, and equity in all real property not used as a home.

The following shall be excluded from consideration as a resource:

1. Household goods, personal effects, cars, trucks, vehicles, cash value of life insurance, and retirement pension funds that are inaccessible to the applicant except as payment of periodic retirement income.
2. Property that annually produces income consistent with its fair market value.
3. Resources that are not accessible to the household due to trust, estate or other title restrictions.
4. Property that the applicant is making an active effort to sell at an asking price that is realistic in relation to similar property in the area.
5. Property normally used as a home but vacated temporarily due to health problems, structural repairs or renovation in progress that make the home uninhabitable, or during repair of heating, water, sewer, or other system failures that would pose a danger to health if habitation continued prior to completion of such repair. Planned absences of up to two months for such cause may be considered temporary; longer periods will require approval of the Director of the Office of Home Heating Fuel Assistance or his or her designee based upon individual circumstances such as nature of illness, reason for delay of repairs, etc.

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2903.3

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2903     Resources2903.3     Jointly Held Resources

Resources owned jointly shall be considered available in their entirety, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent upon the agreement of the joint owner who refuses to comply.

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2904

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**2904**     Income

Income for the Fuel Program shall be the combined gross income of all members of the household computed with regard to definitions, disregards, deductions, exclusions and adjustments in sections 2904.2 - 2904.3. Cents are carried throughout the computation to arrive at the final net income, and then are dropped. Negative income (a loss) shall be considered as zero income.

To the extent that the department collects and maintains income information within its automated data system on recipients of ongoing program benefits administered by the department, such income information will be used for the determination of eligibility and benefits for the Fuel Program, if such income information is more current than that provided on the fuel application. For all other households, the gross income of the household for the 30 days prior to the date of the application, as reported on the application form, will be used in determining eligibility, unless income is from self-employment. (See section 2904.2 for calculating self-employment income)

If a type of income has begun or ended within thirty days prior to the application date or is expected to begin or end in the thirty days following the date of application, income for the Fuel Program shall be based on a reasonable projection of the amount of income expected to be received in the months following the month of change.

**2904.1**     Allowable Income Maximums

Eligibility for the Fuel Program shall be limited to a household with income computed per sections 2904 through 2904.3, which is at or below the allowable maximums amount for household size shown in the Fuel Income Maximum Table which is found in Fuel Procedures at P-2905 A). Due to restrictions specified by 33 V.S.A. Chapter 26, under which this program is established, these amounts cannot exceed 125 percent of the federal poverty guideline for a family of the same size as the Fuel Program household. Income tables will be updated annually according to federal poverty guidelines.

**2904.2**     Definition of Income

Household income is the total income of all Fuel Program household members sharing a primary heating source (as defined in section 2901.1), excluding only income specified in section 2904.3.

Earned income includes, but is not limited to:

1. Gross wages and salaries.
2. Training allowances from vocational and rehabilitative programs, to the extent they are not reimbursement or excluded under section 2904.3.
3. Self-employment income, defined as the total of net income (including net rental income) plus the total net gain from sales of capital goods or equipment plus depreciation.

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2904.2 Definition of Income (Continued)

## Calculating Self-Employment Income

For applicants receiving ongoing benefits from programs administered by ESD, the most recently reported net income from self-employment that has been used to determine eligibility for any of these programs will be used for determination of eligibility for the Fuel Program.

For applicants not currently receiving any other benefits, net income, net gains from sales of capital goods or equipment, and depreciation amounts reported on the most recently filed federal income tax forms will be used.

Applicants who are not receiving any other ongoing benefits from ESD and who have not filed an income tax report within the previous twelve months will have their self-employment income determined according to food stamp rules at 273.11a.

Unearned income is the gross amount available from sources which include, but are not limited to:

1. Assistance payments such as SSI/AABD, Reach Up, Essential Person, or any other assistance program based on need, including General Assistance/Emergency Assistance payments made directly to the household. The portion of assistance payments being recouped will not be counted unless the recoupment is the result of a fraud conviction, or intentional program violation, in which case the full entitlement prior to recoupment will be counted as income.
2. Annuities, pensions, retirement, veterans or disability benefits; unemployment or worker's compensation; old-age, survivors, or disability social security benefits including the part B Medicare premium; strike benefits; foster care payments for children or adults who are considered members of the household. The portion of assistance payments being recouped will not be counted unless the recoupment is the result of a fraud conviction or intentional program violation, in which case the full entitlement prior to recoupment will be counted as income.
3. All support or alimony payments made directly to the household from non-household members or from the Office of Child Support.
4. Student financial assistance, including scholarships, deferred payment educational loans, grants or fellowships, that is not authorized under Title IV of the Higher Education Act or under the Bureau of Indian Affairs student assistance programs and that is in excess of amounts actually used for tuition, mandatory fees and other qualifying expenses (where applicable) at an institution of higher education in which a household member is enrolled. (For households in receipt of Reach Up, this income will be considered the same as in the Reach Up computation. For all others it will be considered the same as in the Food Stamp Program.)
5. Payments from dividends, royalties; and all other direct money payments.

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2904.3 Income Exclusions, Disregards, Deductions and Adjustments

Income shall not include the following:

1. Twenty percent of gross earned income from wages and of net earned income from self-employment and 100 percent of state and federal earned income tax credits (EITC).
2. Cost of dependent care as allowed in food stamp rules section 273.9d 4 and food stamp procedure section P-2590 A.
3. \$150 from the household income for each individual member who is elderly or disabled.
4. Reimbursement for employment expenses.
5. Reimbursement for other expenses incurred, such as insurance coverage of medical expenses or personal service allowances to pay for care in the home.
6. Income derived from payments received from the Family Services Division of the Department for Children and Families for providing room, board, and care to children in foster care who are excluded members of the fuel household.

The room-and-board portion of income received by developmental home providers furnishing qualified foster care to individuals placed by the Vermont Department of Health (VDH), or by a developmental or mental health services agency under contract with VDH. Compensation received in addition to that intended to cover room and board, considered difficulty-of-care payments, is earned self-employment income and is not excluded.

7. Charitable payments made on behalf of an applicant household by a private non-profit organization or public agency, such as third-party General Assistance payments.
8. Student financial assistance authorized under Title IV of the Higher Education Act or under Bureau of Indian Affairs student assistance programs.
9. Loans, except that portion of deferred payment educational loans not authorized under Title IV of the Higher Education Act or under Bureau of Indian Affairs student assistance programs and not used for tuition, mandatory fees, or other qualifying expenses (where applicable). (See also student financial assistance above and on page 2904.2 P. 2.).
10. Food Stamp Cash-Out payments, or the value of food stamps.
11. Income actually paid in making court-ordered support or alimony payments to a non-household member.

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2904.3 Income Exclusions, Disregards, Deductions and Adjustments (Continued)

12. Small and irregular income - less than \$25 a month.
13. Earned income of a child under age 18 who is attending elementary or secondary school at least half time and living under the parental control of another household member.
14. Interest on allowable resources.
15. Money received in the form of a non-recurring lump sum payment, such as Reach Up, income tax refunds, rebates, or credits; state and federal EITC; retroactive lump sum social security, SSI, public assistance, or railroad retirement benefits; lump sum insurance settlements; or refunds of security deposits on rental property or utilities, but not lump sum payments which represent self-employment income. Exclusion of this income does not exclude it from consideration as a resource.
16. Income specifically excluded from consideration for the purpose of determining food stamp eligibility. Section 273.9(c) of the food stamp rules manual provides a complete listing of these exclusions.
17. In-kind income (earned or unearned).

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2905

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**2905 Verification**

- a. When a head of household seeks to have a relative or other person excluded from the fuel household, the head of household is responsible for providing to the Office of Home Heating Fuel Assistance reasonable evidence, as defined below, that substantiates the head of household's assertion that the relative or other person qualifies for exclusion from the fuel household.
- (1) For a roomer (or roomer/boarder) - the head of household's rental income information collected, verified, and maintained in the department database; the head of household's most recent year's tax return showing rental income received by the head of household; a copy of the roomer's (or roomer/boarder's) lease or similar written agreement indicating the rental amount and proof of receipt of these rental payments; or a completed ESD 202H "Shelter Expense Statement" and cancelled checks, money order receipts, or comparable documentation substantiating that reasonable room rent (compensation) has been paid. Reasonable room rent (compensation) must equal or exceed the amounts in section 2901.1 6.
  - (2) For a person providing caretaker or companionship services to an elderly or disabled head of household or the head of household's elderly or disabled spouse or elderly or disabled civil union partner - a completed form provided by the Office of Home Heating Fuel Assistance, which has been signed by the household head or his or her spouse or civil union partner who is elderly or disabled and the person providing caretaker or companionship services. The form must specify the services provided, the time devoted to and the frequency of their provision, the length of time the services have been provided, and other relevant terms and conditions of the living arrangement.
  - (3) For a person providing medically necessary personal care or homemaker services to an elderly or disabled resident of the living unit (within the limits specified in 2901.2 3.(b)(3) or 3.(c)(3)) - a form provided by the Office of Home Heating Fuel Assistance, which has been completed and signed by the elderly or disabled person's physician or other licensed health care provider. The form must specify the homemaker or personal care services being provided and documents their medical necessity.
  - (4) For persons in the custody of and placed in foster care in the living unit by the Family Services Division of the Department for Children and Families or persons placed in the living unit by or through a program administered by the Department of Developmental and Mental Health Services - a statement signed by an appropriate employee of the Family Services Division of the Department for Children and Families or the Department of Developmental and Mental Health Services or a copy of a notice of payment or benefit change from the applicable department that documents the foster care status.

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2905      Verification (Continued)

- b. When, in the judgment of the Office of Home Heating Fuel Assistance, any factor of eligibility is questionable, the office may require further substantiation or verification applicable to that factor.
- c. The applicant must provide sufficient substantiation or verification in a timely manner, or demonstrate good cause for failing to timely provide the requested substantiation or verification. This rule extends to considerations such as the identity of residents of the living unit, location of the living unit or separate living quarters, household composition, income, resources, or any other eligibility factor. The Office of Home Heating Fuel Assistance may defer the verification requirement for good cause demonstrated by the applicant.
- d. Although the applicant bears primary responsibility for providing verification, upon request, the Office of Home Heating Fuel Assistance will assist in this process, if, in the judgment of the director of the office or his or her designee, such assistance is necessary and the applicant consents.
- e. The Office of Home Heating Fuel Assistance will not make third-party contacts during the application process that would identify the applicant without prior knowledge and consent of the applicant. However, the office will verify information on household income and resources through electronic matches with other state and federal government departments and organizations. Subsequent to authorization and issuance of benefits, the office reserves the right to make any contacts necessary to substantiate facts in response to complaints or other information received that constitutes a reasonable basis for suspecting fraud or abuse.
- f. Failure on the part of the head of household to submit required information, to provide documentation necessary for required verification, to consent to third-party verification of any eligibility factor, or to cooperate in obtaining required verification; or failure on the part of any other person residing in the living unit to submit required information, to provide documentation necessary for required verification, to consent to third-party verification of any eligibility factor, or to cooperate in obtaining required verification; or failure on the part of the head of household or any other person residing in the living unit to demonstrate good cause for failing to timely provide the requested substantiation or verification shall result in a denial of benefits to the entire fuel household or, where applicable, the entire roomer (or roomer/boarder) fuel household.

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2907.2

### 2907.2 Use of Payments to Certified Fuel Suppliers

Benefits shall be used for primary home heating fuel or energy purchased during the heating season from November 1 to March 31, or as otherwise permitted in this section. Under no circumstances will fuel suppliers be allowed to pay a benefit or a credit balance to a fuel household.

An eligible household that has an outstanding bill with its primary heating fuel supplier may, at its discretion, and provided that the household and its fuel supplier enter into an agreement for a budget payment plan for fuel or a repayment plan for fuel arrears, use up to 17 percent of the benefit amount for fuel delivered prior to November 1.

Under no circumstance may benefits be used to pay for repairs to a household's heating system, parts, special trip charges, or any non-heat uses.

Any credit balance outstanding on March 31 may be applied to home heating fuel or energy delivered in the month of April.

Notwithstanding the requirements described above, eligible households whose primary heating fuel is wood may use up to 100 percent of the benefit to pay for wood deliveries received prior to November 1.

### 2907.3 Credit Balances at the End of the Heating Season

All benefit payments remain the property of the state of Vermont until actually used by the fuel supplier for the provision of home heating fuel to eligible households.

In the event that on April 30 of any year a credit balance exists in a certified fuel supplier's account for a household that has received annual home heating fuel assistance during the previous 12 months, and the total cost of fuel delivered to the household during the previous 12 months did not exceed the total Fuel Program benefits received by the household during that same period of time, that certified fuel supplier is required to pay the amount of this credit balance to the Office of Home Heating Fuel Assistance no later than May 31 of the same year.

### 2907.4 Expedited Seasonal Fuel Benefits for Crisis Households

In a primary heat crisis situation a household may have their seasonal fuel application expedited by the Fuel Assistance Office and, if eligible, have their seasonal fuel benefit paid to a certified fuel supplier within 10 business days when all of the following conditions are met:

- a. A crisis fuel worker has determined the household eligible for crisis fuel assistance.
- b. The crisis situation is for primary home heating fuel or energy.
- c. The household has not received any seasonal fuel benefit for the season.
- d. The household has submitted a seasonal fuel assistance application.
- e. The crisis fuel worker has requested an expedited seasonal fuel benefit.
- f. The Fuel Assistance Office has determined the household eligible for seasonal fuel assistance.

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2908

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**2908**      Changes in Household Circumstances

Once a household has been determined eligible and a benefit has been issued for the ensuing heating season, changes of household income, size, or any other household circumstance do not need to be reported and will not affect eligibility or benefit levels for that household.

The following circumstances, however, will result in withholding any future lines of credit or will require a refund to the department of any unused benefits issued on behalf of that household with its primary heating fuel supplier:

- a. All members of the household die; or
- b. All household members move out of Vermont.

**2908.1**      Change of Fuel Supplier

If a household changes its primary supplier of heating fuel and notifies the Office of Home Heating Fuel Assistance in writing at least ten days before a line of credit is issued to its original supplier, the line of credit and any subsequent lines of credit will be issued to its new fuel supplier provided the new fuel supplier has been certified as described in section 2912.

The department will not transfer any balances from a previously issued line of credit to a new fuel supplier. A household, however, may request its fuel supplier to transfer its credit balance to another primary heating fuel supplier. Before granting such a request to transfer a line of credit, the fuel supplier holding that credit must notify the Office of Home Heating Fuel Assistance of the intent to transfer the credit balance to any other certified fuel supplier.

Under no circumstance will fuel suppliers be allowed to pay credit balances to households.

**2909**      Notice of Decision and of Appeal Rights

Applicants for benefits under the Fuel Program will be provided with notice of grants and adverse decisions that state the action taken, the reasons for such action, and the right of the applicant to a hearing if he or she is aggrieved by the action.

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2911

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2911      Recoupment

The department may seek recoupment of benefits representing an overpayment resulting from intentional program violation, fraud or a benefit issuance that occurs by department or client error.

- a. Recoupment may be accomplished by a cash repayment to the department by the recipient or fuel supplier, or by the department's withholding of an equivalent amount of benefits to which the recipient would otherwise be entitled in the future under the seasonal component or the crisis component of this program. The department reserves the right to withhold any further benefit issuances until the full amount of the overpayment is recouped under this program.
- b. If the overpayment is the result of intentional program violation or fraud, the household will be disqualified from participating in the program until the overpayment has been repaid, or for one fuel season, whichever is less.
- c. The department will accept any payment made as recoupment of overpayments under terms and conditions set by the court when recipients are found guilty of fraud and are ordered by a court to reimburse the department.
- d. Department requests for recoupment of benefits representing an overpayment must be made within 180 days of the close of the fuel season in which the overpayment occurred, except in the case of an overpayment resulting from fraud.

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2912 P.3

2912 Fuel Supplier Certification (Continued)

- l. For fuel suppliers that provide discounts to their customers, the supplier agrees to grant Fuel Program recipients the same discounts for cash payment, prompt payment, preseason contract price, or any other discounts granted to any other heating fuel customer, on the line of credit benefits provided by the program. If requested, the supplier will inform the office of cash discount amount(s) and special trip charges provided to the supplier's customers who are not participants in the program. Fuel suppliers that provide a discount agree to specify the discount amount and unit measurement on the certification agreement.
- m. The supplier agrees to charge eligible Fuel Program recipients using the supplier's normal billing process. The supplier agrees that the fuel charge payable by the recipient shall be no more than the total charges for the cost of the fuel, less the line of credit amount established in the allocation schedule, and less applicable cash discounts based on the line of credit amount. The supplier will carry forward any credit balances for fuel up to April 30.
- n. If a Fuel Program recipient is no longer a heating fuel customer of the supplier, and there is a credit balance being held in the former customer's account, the supplier agrees to transfer the balance to the recipient's new fuel supplier, provided the recipient requests the transfer, and the supplier has confirmed the proposed transfer with the office. Under no circumstances may a supplier issue a credit balance directly to a Fuel Program recipient.
- o. The supplier agrees that if on April 30 of any year a credit balance exists in an account for a person who has received Fuel Program benefits during the previous 12 months, and the total cost of fuel delivered to the household during the previous 12 months did not exceed the total Fuel Program benefits received by the household during that same period of time, the supplier will pay the full amount of this credit balance to the office no later than May 31 of the same year.
- p. The supplier agrees to maintain the quality and quantity of its products and service in full compliance with all applicable laws and regulations, including measurement for cords of wood fuel.

The supplier agrees that only fuel suppliers certified by the Commissioner of the Department for Children and Families or her or his designee, will be eligible to participate in the program. Persons found eligible for the Fuel Program may only receive Fuel Program benefits through lines of credit issued to fuel suppliers certified by the commissioner. In addition to any rules that the Agency of Human Services may adopt regarding certification, an accurately completed and signed certification agreement must be in effect and on file with the commissioner for the supplier to be certified. The supplier will be notified of certification at the time benefit data for eligible Fuel Program recipients is provided to the supplier.

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2912 P.4

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2912      Fuel Supplier Certification (Continued)

- r.      The supplier agrees that the certification agreement will remain in effect for up to one year ending on June 30, and may be automatically renewed at the sole discretion of the commissioner or her or his designee, in one-year terms ending on June 30, for a total of three years. The certification agreement may be canceled by either the supplier or the commissioner designee, with 30 days' written notice. The commissioner or her or his designee may decide not to renew, or may decide to cancel the certification agreement if a supplier violates one or more terms of the certification agreement.
  
- s.      The supplier agrees to make crisis fuel deliveries authorized by the office or the community action agencies as part of the program's crisis component that do not exceed 125 gallons for oil, propane, kerosene and other liquid fuels.
  
- t.      The supplier agrees to bill for crisis fuel deliveries authorized by the office or the community action agencies within 30 days of the delivery.