

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

DCF

Department for Children and Families

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MG

BULLETIN NO.: 23-18

FROM: Miranda Gray, Deputy Commissioner
Economic Services Division

DATE: 04/01/24

SUBJECT: Seasonal Fuel Assistance Rules

CHANGES ADOPTED EFFECTIVE 06/01/24

STATUS

 Proposed Rule
 X Final Proposed Rule
 Adopted Rule

RULE REFERENCE(S):

2900–2989

Summary of Proposed Rule

The proposed rules would repeal the fuel rules, referenced above, and replace them with two new sets of rules: one for seasonal fuel assistance (2900–2927) and one for crisis fuel assistance (3100–3113). This bulletin addresses the new seasonal fuel rules.

The rules as they are currently written do not conform at all to a lot of current practices. The new rules clarify existing rules and incorporate recent federal guidance and significant statutory changes that have occurred since the rules were last amended in 2009. To conform to statutory changes, the new rules eliminate the certification requirement for suppliers of firewood and wood pellets, remove asset and resource requirements for households, clarify the procedures for calculating income such as removing income deductions, and revise income-eligibility requirements. These changes are not expected to change current practice.

The rules also add new requirements. For example, the rules now require applicants to produce identification, provide social security numbers, and supply immigration documentation if they are not U.S. citizens, to conform to federal law. This is already required by other ESD programs. The proposed rules also disqualify applicants who live outside Vermont during winters. The new rules further clarify that applicants living in temporary or mobile structures are not eligible for fuel benefits. Furthermore, because of a recent federal audit, the income-verification requirement was modified so that DCF may no longer rely on an applicant’s self-declaration of income.

Specific Changes to Rule Sections

Former Section	New Section	Explanation
2900	2900	Fuel Program. Introduction and legal-authority section shortened to remove unnecessary background information. Heading changed to “Fuel Assistance Program.”
2901	2920	Additional Funds. Repealed, rewritten, renumbered, and retitled: “One-Time Benefits.” Provisions of rule governing allocation of funds between programs and administration were removed as unnecessary restrictions on internal department management. Similarly, provisions of rule requiring additional funds to be distributed to households according to existing benefit-level and benefit-issuance rules, unless emergency rules are adopted, were removed to give DCF maximum flexibility to address unusual circumstances in light of experience during the pandemic. Revised rule now permits DCF to establish one-time procedures, without emergency rulemaking, for distribution of additional assistance funds to allow speedy issuance of benefits to people most affected by the circumstances that caused the additional funding.
2902	2902	Fuel Supplier Certification. Excludes firewood and wood pellet suppliers from certification pursuant to 33 V.S.A. § 2607(a). Removes redundant language and provisions covered in other rules and shortens and simplifies requirements in certification agreements to better reflect the requirements of 33 V.S.A. § 2607. Provisions regarding crisis fuel were removed as crisis fuel will now be governed by new and separate rules.
2903	N/A	Advantageous Pricing. Rule pertaining to summer fuel purchase agreements is repealed because Act 50 § E.324.8 (2013) expanded options for suppliers to provide fuel at lower prices. Rule’s reference to negotiating best prices is already required by 33 V.S.A. § 2602(c), which permits DCF to use other fuel-purchasing practices in addition to summer fuel purchases. Other provisions of this rule, regarding purchase terms, are now addressed in revised rule 2902.
2904	2925	Recoupment. Rule renumbered and language simplified to ensure DCF can recoup any overpayment using any lawful means, including methods already listed in existing rule 2904. Provisions about disqualifications and time limits remain unchanged.
2910 ¹	N/A	Household Composition. This short rule is repealed as unnecessary since it was a non-substantive introduction to eligibility criteria governed by other rules. Household eligibility is now governed by revised rule 2903.

¹ The original fuel rules do not contain numbers 2905–2909.

2911	2901	<p>Definitions. Rule renumbered, reorganized, and some definitions were added or removed. “Living Unit” clarifies permanent structures include manufactured homes, permanently immobile structures, and structures affixed to foundation on the ground. “Civil Union” removed as unnecessary. Definitions were added for caretaker, companion, department, EBT, heating season, individual in foster care, individual in residential home care, LIHEAP, medically necessary caregiver, and resident.</p>
2912	2903	<p>Eligible Households. Retitled “Seasonal Fuel Eligible Households” and renumbered as rule 2903. Rule reorganized and simplified. Removes references to resources, which no longer affect eligibility because of changes to 33 V.S.A. § 2604. Adds reference to federal citizenship and immigration requirements. Changes maximum household income as a percentage of poverty level as required by changes to 33 V.S.A. § 2604. Adds new requirement for head of household to reside in living unit during winter. Removes references to other benefits programs as unnecessary. Expands mandatory household members to include all children (except foster children) in living unit as well as their parents and spouses.</p>
2913	2904	<p>Excluded Households. Retitled “Excluded Living Arrangements” and renumbered as rule 2904. Rule clarifies and expands types of places where residents are ineligible for benefits, such as institutions where heat is included with the services, dorms, shelters, motels, and transitional housing units. Rule clarifies that people residing in vehicles, moveable structures, and non-traditional residences, such as shops and shacks, are ineligible for benefits unless structure is modified to meet definition of “living unit.”</p>
2914	2905 2906	<p>Application. Original rule contained two main provisions. The first was moved to new rule 2906, titled “Eligibility Review.” This rule continues to require annual reviews for current fuel assistance recipients to determine benefits eligibility for next heating season. Rule 2906 has two new exceptions to this requirement: fuel households that receive 3SquaresVT benefits may have their eligibility reviewed annually, biennially, or triennially, depending on household composition and income; and DCF must review eligibility after any significant change in household circumstances.</p> <p>Second provision of old rule 2914 now appears in new rule 2905, which adds new application requirements. Revised rule now permits applications to be filed any time but prohibits receipt of benefits for any period before the month the application is filed. New rule 2905 also requires DCF to assist people with applications if needed. New applicants are now required to produce identification, provide social security numbers, give fuel supplier’s name and account number, and supply immigration documentation if they are not U.S. citizens. Rule further specifies consequences for</p>

		failing to provide all necessary information and documents, which may include application denial.
2915	N/A	Application Period. This rule, which specified when applications may be filed, is repealed because applications may now be filed any time pursuant to 33 V.S.A. § 2606. Provisions addressing how application-filing dates affect benefit determinations and issuance are now covered in new rule 2905. Provisions in old rule relating to agreements with other departments and non-profit agencies are repealed since they pertain to internal department management, not benefit determinations. References in rule to assisting applicants are clarified and addressed in new rule 2905.
N/A	2907	U.S. Citizen, National, or Qualified Immigrant. New rule, limiting benefits to U.S. citizens and certain immigrants, does not change existing practice. Rule added to conform to federal law and is similar to immigration rules in other ESD regulations.
2916	2908	Verification. Rule renumbered and reorganized with additional provisions. Rule now clarifies when household must provide verification and gives timeframes for when an application must be reprocessed or denied for late or nonexistent verification. In response to a federal monitoring report, DCF must now verify all income without relying on self declaration. Rule requires DCF to use electronic databases, such as Income and Eligibility Verification System (IEVS). Rule also amended to permit DCF to contact third parties for verification, regardless of whether fraud is suspected.
N/A	2908.1	Verification of Identity. New rule added in response to federal monitoring report. Rule expressly requires verification of identity of applicants and any authorized representatives. Verification is satisfied by any document that establishes identity.
N/A	2908.2	Verification of Immigration Status. New rule added in response to federal monitoring report. Rule expressly requires noncitizens to provide proof of immigration status, which must be verified through the federal SAVE program (Systematic Alien Verification for Entitlements). Rule permits DCF to ask for proof of U.S. citizenship if questionable but forbids racial or ethnic profiling. Rule specifies consequences when lawful immigration status cannot be established: person excluded from household count, but their income is counted.
N/A	2909	Social Security Numbers. New rule added in response to federal monitoring report. Rule requires all household members to provide social security numbers (SSN) or proof of application for SSN, unless there is a religious objection. This rule is based on 3SquaresVT rule and specifies consequences when SSN is not provided by person, over six months old, without good cause: person must show proof

		of application for SSN or person is excluded from household count with their income included in household’s gross income.
2920 ²	N/A	Resources. Rule repealed to conform to changes to 33 V.S.A. § 2604 that eliminated resource requirements for eligibility.
2921	N/A	Resource Maximum. Rule repealed to conform to changes to 33 V.S.A. § 2604 that eliminated resource requirements for eligibility.
2922	N/A	Jointly Held Resources. Rule repealed to conform to changes to 33 V.S.A. § 2604 that eliminated resource requirements for eligibility.
2930 ³	2910 2911	<p>Income. Original rule contained three main provisions. First provision now appears in revised rule 2910, titled “Gross Income.” Revised rule 2910 updates references to other fuel rules and requires gross income to be counted in same manner it is counted under 3SquaresVT program. References to disregards, deductions, and adjustments were also removed. These changes to income-calculation rule are mandated by changes to 33 V.S.A. § 2604(a).</p> <p>The second provision of old rule 2930, which instructed staff to use recent income information from DCF databases, is repealed as unnecessary because it governs internal department management. Additionally, new rule 2908 requires DCF to verify income using other databases.</p> <p>The third provision of old rule 2930, requiring income to be counted over 30-day period, was moved to revised rule 2911, titled “Household Income Sources.” Revised rule 2911 clarifies that income received during 30 days before application is filed is used to calculate monthly income, which is averaged similarly to the method used by the 3SquaresVT program. Revised rule also establishes three sources of income and references new fuel rules where each source is defined.</p>
2931	2913	Income Maximums. Rule renumbered and amended to reflect changes to 33 V.S.A. § 2604(a), which increased maximum income a household may receive to qualify for fuel assistance, from a net income of 125% of federal poverty guidelines to a gross income of 185% of guidelines based on household size.
2932	2911.1 2911.2 2911.3	Definition of Income. Each of the three provisions in this rule was reformatted and given its own rule. New rule 2911.1 governs “Earned Income.” This provision remains mostly unchanged, except self-employment income is no longer classified as earned income in order to avoid confusion because the two forms of income are calculated differently.

² The original fuel rules do not contain numbers 2917–2919.

³ The original fuel rules do not contain numbers 2923–2929.

		<p>New rule 2911.2 governs “Unearned Income.” This provision, based on 3SquaresVT rules, remains unchanged, though it was reformatted for readability.</p> <p>New rule 2911.3 governs “Self-Employment Income.” New rule defines self employment and clarifies that rental-property income is self-employment income, unless property is managed by third party, then it is unearned income. Rule amended pursuant to 33 V.S.A. § 2604(a) to expressly require self-employment income to be calculated using 3SquaresVT rules and procedures. This amendment made references in old rule unnecessary—to sales, capital, depreciation, and tax forms—and they have now been removed.</p>
2933	2912	<p>Income Deductions. Rule renumbered and retitled “Excluded Income.” Rule clarified to focus only on income exclusions, which prohibits inclusion of certain income when calculating gross income, without mentioning deductions. Rule amended to conform to 3SquaresVT rules, as required by § 2604(a), leaving many previous income exclusions unchanged while adding new ones.</p>
2940 ⁴ 2941 ⁵	2914	<p>Calculation of Benefits. Old rule 2940, “Benefit Levels,” combined with old rule 2941 and renumbered as rule 2914. Rule reorganized, and duplicative provisions removed, to clearly explain how calculations are made with specific references to other steps and rules. Benefit amounts to roomers and section 8 households were changed to reflect amounts in 33 V.S.A. § 2605. Provisions requiring benefit reductions moved to end of rule. Provisions related to minimum fuel costs removed due to changes to 33 V.S.A. § 2604. Provisions related to maximum benefit amounts removed due to changes to 33 V.S.A. § 2605. Provision from old rule 2940, rounding down dollar amounts, remains unchanged.</p>
2942	N/A	<p>Fuel Program Tables. Rule repealed to conform to changes to 33 V.S.A. §§ 2604-2605 that eliminated minimum fuel costs and maximum benefit amounts and changed maximum benefit percentages for households.</p>
N/A	2915	<p>Percentage of Benefits. New rule creates table, similar to old rule 2942, for percentage of benefits household is eligible for based on percentage of poverty. Percentages changed from old rule 2942 to</p>

⁴ The original fuel rules do not contain numbers 2934–2939.

⁵ The official fuel rules have a different rule 2941 than the rule posted on DCF’s website for the past 14 years. Original rule 2941, “Subsidized Housing,” was temporarily repealed in an emergency rule in 2009, and original rules 2942 (“Calculation of Benefits”), 2943 (“Fuel Program Tables”), and 2944 (“Primary Heating Fuel Costs”) were temporarily amended and renumbered. The emergency rule never became permanent, but the Legislature made significant statutory changes affecting rules 2940–2944 in 2010. Since all fuel rules are being permanently repealed, this bulletin only addresses changes to the rules as they appear on DCF’s website.

		conform to changes to 33 V.S.A. § 2605. Rule retains provision from old rule 2941 setting maximum benefit amount of 90% of fuel cost.
2943	2916	Primary Heating Fuel Costs. Rule renumbered, partially repealed, and retitled, “Development of the Standard Heating Cost Tables.” Standard Heating Cost Tables from old rule 2943 were removed to conform to changes to 33 V.S.A. § 2604(c), which requires such tables to be established by procedure, not rule. The tables must list all energy types that can be used for heating fuel, which is consistent with prior practice. Remainder of rule governing how DCF must establish heating cost tables comes from § 2604 and remains mostly unchanged from old rule 2943.
2950 ⁶	2917	Benefit Issuance. New rule removes March 31 benefits-issuance deadline to account for possible delays in processing applications. Removes language about using LIHEAP money only for fuel assistance, since this is already a statutory requirement that only affects department management of funding allocation. Redundant language about benefits contingent on funding was removed. Language in old rule 2951, regarding form of payment, was moved to new rule 2917 and amended to give DCF broad discretion to issue payment in any form, including EBT, direct deposit, or check.
2951	2918	Benefit Payment Method. Rule renumbered and retitled “Benefit Payment Schedule.” Rule significantly restructured and amended to give DCF more flexibility to issue payments before or after certain dates depending on funding availability. Roomers and section 8 households now receive benefits before November 1, instead of March 31 under old rule. Households with heat included in rent now receive benefits before January 1, instead of December 15. Schedule for other households remains unchanged. New nominal payment added, pursuant to 33 V.S.A. § 2605(h), for 3SquaresVT recipients who do not receive fuel assistance. Their payments may be issued annually on any day. All eligible households that apply during heating season will now receive payments “reasonably promptly,” not “within 30 days . . . if administratively possible,” as old rule 2951 provides. Language regarding form of payment was moved to new rule 2917.
2952	2919	Payments to Certified Fuel Suppliers. Retitled “Use of Benefit Payments,” rule was renumbered and reorganized to reflect differences between wood and pellet users and other beneficiaries. New rule clarifies existing practice, but substance remains mostly unchanged, except heating season extended from March 31 to April 30, and wood and pellet users must keep receipts for DCF inspection.

⁶ The original fuel rules do not contain numbers 2945–2949.

2953	2921	Credit Balances. Rule shortened and simplified. Substance of rule is mostly unchanged, except Commissioner now has discretion to change deadlines in the rules.
2954	2922	Expedited Benefits, Crisis Households. Title shorted to “Expedited Benefits.” Households no longer need to qualify for crisis fuel assistance to request expedited application processing. Rule now requires applicant, not crisis worker, to make request. Rule otherwise remains significantly unchanged.
2960 ⁷	2923	Changes in Circumstances. Previous rule did not require households to report changes in circumstances. Now they must do so within ten days of change. Rule amended to permit additional benefits in limited circumstances when changes occur to certain roomer or section 8 households. Rule amended to permit DCF to withhold or recoup benefits when all adult household members move to excluded living arrangements or live outside Vermont during the winter. Other provisions remain unchanged.
2961	2924	Change of Fuel Supplier. Amended rule requires households to provide information about new fuel supplier. Amended rule clarifies that old supplier shall transfer fuel credit to new supplier, unless new supplier is not certified by DCF. Old supplier no longer required to notify DCF of transfer. Duplicative provision removed.
2970 ⁸ 2971 2971.1	2926	Notice and Appeal Rights. New rule 2926 combines three old rules governing appeal procedure. New rule simplifies old rules and removes redundant language and provisions. Provisions retained from the old rules include: right to appeal decisions, notice of this right in written decisions, and 90-day time limit to appeal. Complaint procedure in old rules 2971 and 2971.1, permitting dissatisfied persons to complain to DCF before appealing to Human Services Board, is repealed as unnecessary. All communications to DCF indicating a wish for a hearing or appeal must now be forwarded to Board as a request for a fair hearing.
2971.2	N/A	Fair Hearing Rules. Repealed as unnecessary reference to outdated Human Services Board rules.
N/A	2927	Severability. New legal housekeeping rule added to prevent inadvertent repeal of seasonal fuel rules by courts.
2980–2989 ⁹	3100–3113	Crisis Fuel Assistance. These rules are repealed, and the new rules replacing them are discussed in ESD Bulletin B23-20.

⁷ The original fuel rules do not contain numbers 2955–2959.

⁸ The original fuel rules do not contain numbers 2962–2969.

⁹ The original fuel rules do not contain numbers 2972–2979.

Rulemaking Process

A. Informal Public Input Process

1. The proposed rules were filed with the Interagency Committee on Administrative Rules (ICAR) on September 11, 2023, and approved at ICAR's meeting on October 9, 2023.
2. The proposed rules were filed with the Secretary of State's Office on November 2, 2023.
3. The Secretary of State published a notice of rulemaking on its website and in newspapers on November 8, 2023, and November 16, 2023, respectively.
4. The Department posted the proposed rule on its website, <https://dcf.vermont.gov/esd/laws-rules/proposed>, and notified advocates, subscribers, and members of the public of the proposed rule.

B. Formal Notice and Comment Period

1. An in-person and virtual public hearing was held on December 19, 2023, in Waterbury, VT. Public comments were made by the Champlain Valley Office of Economic Opportunity, Capstone Community Action, and a retired Department employee. The deadline for written public comment was December 27, 2023, but none was received. A summary of the comments and the Department's responses are below.
2. The anticipated effective date of the rule is on or about June 1, 2024. This date is subject to change.

To get more information about the Administrative Procedures Act and the rules applicable to state rulemaking, visit the website of the Office of the Vermont Secretary of State at: <https://sos.vermont.gov/secretary-of-state-services/apa-rules>. If you have general questions about the rulemaking process, email sos.statutoryfilings@vermont.gov or call 802-828-3700.

For information on upcoming hearings before the Legislative Committee on Administrative Rules (LCAR), visit the Vermont Legislature's website at: <https://legislature.vermont.gov/committee/detail/2024/39> or call 802-828-2228.

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Comment: A commenter expressed approval of proposed rule 2906(a)(1), which is a new provision permitting the Department to conduct seasonal fuel assistance eligibility reviews, for beneficiaries who regularly receive assistance each year, at the same time the Department conducts 3SquaresVT eligibility reviews.

Response: The Department agrees with this commenter that this new provision will provide administrative efficiency for the Department and fuel assistance recipients, many of whom also receive 3SquaresVT benefits. The Department has no plan to

change this proposed provision because it reduces the need for some recipients to submit duplicative evidence to receive benefits from different Department programs.

Comment: Commenters expressed concern about proposed rule 2905(i), which is a new provision requiring new applicants to provide proof of identity and lawful immigration status in order to receive fuel assistance. This proposed rule could prevent otherwise eligible applicants from receiving assistance due to lack of proof.

Response: The Department appreciates that this new provision may unintentionally disqualify some otherwise eligible applicants. However, the Department is already required by federal law to verify an applicant's immigration status before issuing any benefits. The addition of this new provision merely incorporates current practice and federal law into the fuel assistance rules.

Similarly, the addition of the new identity-verification requirement is the result of a federal recommendation made in an audit conducted by the U.S. Department of Health and Human Services, which funds Vermont's fuel assistance program. To ease the burden of this requirement, proposed rule 2908.1(c) permits applicants to submit one of two dozen common documents to verify their identities.

Furthermore, once an applicant provides proof of identity and immigration status, a notation is made in the Department's database so returning applicants will not be required to provide proof in the future.

Comment: Commenters expressed concern about the revised definition of eligible "living unit" in proposed rule 2901(a)(12). Additionally, proposed rule 2904 excludes transient living units, temporary living quarters, and movable structures from the definition of "living unit." These provisions explicitly make applicants ineligible for fuel assistance if they live in trailers, campers, and motor homes. Commenters were concerned that these revisions would lead to more application denials.

Response: Current rule 2911(A) defines "living unit" as a "permanent structure that is used customarily as a domicile," with a kitchen and bathroom. The rule was originally intended to apply only to traditional buildings and was never intended to cover temporary dwellings and structures capable of movement. As more Vermonters have moved into shelters that are not typical buildings, the Department finds it necessary to clarify the definition of "living unit" to avoid confusion and provide clarity to Department staff and the public about the meaning of "permanent structure" in the current rule. The Department consulted fuel assistance rules from other states to ensure its definition of "living unit" was consistent with definitions used across the country.

The Department expressly made applicants ineligible for fuel assistance if they live in structures capable of movement because a movable unit is not a "permanent structure" under the current rule. The requirement for a permanent,

unmovable structure ensures that Vermont heating benefits are not used by people whose homes can be moved out of state. Moreover, state and federal law requires the fuel assistance program to refer beneficiaries to the Department's weatherization program, which helps low-income Vermonters make their homes more energy efficient, thereby reducing their need for fuel assistance in the future. The weatherization program assists building owners to make their living units more energy efficient. Expanding the definition of "living unit" to encompass campers, trailers, and other movable structures would require the Department to refer a class of beneficiaries for weatherization benefits they are categorically ineligible for.

Furthermore, unless a beneficiary uses firewood or wood pellets, fuel benefits are distributed to certified fuel dealers who credit the accounts of beneficiaries. These dealers do not deliver fuel to structures with small fuel tanks, such as campers and trailers. Expanding the definition of "living unit" to include movable structures would create a class of beneficiaries who have no certified fuel dealer to deliver fuel. However, proposed rule 2904(a)(5) permits the Department to provide fuel assistance to people living in a non-traditional building if they convert their movable structure into a permanent structure that meets the definition of living unit.

Comment: A commenter expressed concern that the proposed rule may permit fuel assistance to go to applicants who use their homes as a bed and breakfast, thereby reducing benefits to people who only use their homes as non-commercial domiciles for their families.

Response: Proposed rule 2904(a)(4) excludes people from receiving fuel assistance if they live "in hotels, motels, or other commercial dwellings." However, this language would not expressly exclude applicants who live in a home that they rent out as a bed and breakfast. The Department agrees with the commenter and replaced the language in proposed rule 2904(a)(4) with, "Lodging establishments and short-term rentals, as those terms are defined by 18 V.S.A. § 4301(a)." Those terms include hotels, motels, bed and breakfasts, and inns as well as houses and rooms listed as short-term rentals on websites such as Airbnb and Vrbo.

Comment: A commenter expressed concern that the definition of "living unit," which requires bathroom and kitchen facilities specific to the unit, does not indicate whether these facilities must be operational or functional. This lack of clarity may lead to inconsistent results where some applicants with non-operational facilities are granted assistance while others are denied. However, the commenter declined to recommend a specific change.

Response: After carefully considering the commenter's concern about "operational" or "functional" bathroom and kitchen facilities, the Department declines to change the definition of "living unit." As indicated before, the need for clarification of this definition arises from a shortage of permanent housing in the state and the

rise of nontraditional housing, such as people living in campers and trailers. This has led to more applicants seeking fuel assistance for nontraditional structures to which certified fuel dealers will not deliver fuel. The housing shortage has also led increased discussions about whether certain structures meet the definition of “living unit.”

The Department believes that adding a qualifier, such as “operational” or “functional,” will only shift the focus of inquiry without providing the clarity necessary to lower the number of disputes. Instead of questioning whether a space is a bathroom facility, the focus will become whether a space—that could theoretically be used as a bathroom—is operational.

The Department believes that amending the language requiring bathroom and kitchen facilities will have unintended consequences. By requiring an “operational” kitchen, for example, an otherwise eligible applicant for fuel assistance could be disqualified if her water or electricity was shut off due to nonpayment. Requiring functional facilities in this situation could exacerbate the hardship of someone who is already struggling to pay utility bills. Accordingly, the Department declines to add a functionality requirement which could result in the disqualification of otherwise qualified and needy applicants.

Likewise, the Department considered and rejected the idea of expressly specifying that bathroom and kitchen facilities do not need to be operational. Such an amendment would likely result in the approval of benefits to applicants living in structures that do not meet the historical definition of living unit. Any amendment would be intended to add clarity, not increase eligibility. If the rule specifically allowed for nonfunctional facilities, then a room could become an eligible living unit simply because it has a broken stove or a sink unconnected to running water.

If there is already confusion about what constitutes a bathroom or kitchen, expressly disclaiming any functionality requirement will only lead to further disputes over whether a unit has any bathroom and kitchen facilities. Instead, the Department believes that questionable facilities should continue to be assessed on a case-by-case basis. Otherwise, nonfunctional facilities will become de facto nonexistent facilities, thereby dramatically increasing eligibility.

The Department looked to fuel rules in other states to see how this issue is addressed elsewhere. Some states do not mention kitchens or bathrooms in their definitions of living units. Fuel programs in states that require living units to have bathrooms and kitchen do not specify whether those facilities must be operational. Instead, those rules clearly indicate what kinds of units do not qualify as living units. The Department followed this example when it drafted proposed seasonal fuel rule 2904, expanding the number of nontraditional living situations that do not qualify for fuel assistance. As a result of this expanded legal research, the Department believes it is appropriate to add “sheds” to the list of ineligible living units under proposed seasonal fuel rule 2904(a)(5).

Comment: Commenters expressed concern about a new provision in proposed rule 2905(g) requiring applicants to provide the names and account numbers for both their fuel supplier and electricity provider. The commenters questioned the need to add this new requirement, particularly if an applicant is only seeking one form of energy assistance.

Response: This new provision was added to increase administrative efficiency. The Department generally pays fuel suppliers directly on behalf of beneficiaries, but this payment is delayed when the Department does not know who provides fuel to a beneficiary or if the beneficiary has multiple accounts with a fuel supplier. Requiring applicants to provide this information speeds up the distribution of benefits and reduces the administrative costs of fuel suppliers and the Department. Furthermore, the federal government requires the Department to report beneficiaries' total energy consumption, from fuel suppliers and electricity providers. Requiring account numbers permits the Department to quickly acquire the necessary information from utility providers so the Department can comply with its reporting requirements.

Comment: A commenter expressed concern about a new provision in proposed rule 2908(c) requiring the Department to verify the income of all applicants for fuel assistance. For self-employed applicants, income is usually verified by the applicant's previous year's income tax filings, but this verification method is unavailable to self-employed applicants with new businesses. The proposed rule no longer permits applicants to self-certify their income under these circumstances. The commenter was concerned that otherwise eligible self-employed applicants would be denied benefits due to insufficient proof of income.

Response: This new verification requirement was prompted by a federal audit of the Department's fuel assistance program. The proposed rule is intended to ensure that self-reports of income are accurate. Failure to implement this requirement could jeopardize federal funding of the program in the future. However, proposed rule 2908(c)(1) gives the Department considerable discretion in how to meet this requirement, and no one form of verification is prescribed in those relatively few cases where tax returns are unavailable. The new rule allows the Department to verify self-employment income using any type of receipt or business record used by an applicant to document income. This gives applicants the ability to submit different types of records to prove income depending on an applicant's individual circumstances.

Comment: One commenter noted that the method for calculating benefits, and particularly proposed rule 2914, relies on Department-established procedures that are not subject to the rulemaking process. The commenter inquired whether the proposed rule would permit any significant "benefit restructuring" in the future.

Response: The current rules were last updated almost 15 years ago and do not reflect the method the Department currently uses to calculate fuel assistance benefits. Significant state legislation since the last rule revision essentially nullified many provisions of the current rules. The proposed rule is intended to reflect the benefit-calculation methodology prescribed by the Legislature. Although the proposed rule may appear to alter the benefit-calculation formula, the proposed rule aligns with current practice and is consistent with the applicable statutes. In fact, the Legislature requires the Department to forego the rulemaking process and update its procedures periodically to reflect changes in fuel costs and poverty levels. Changes to these economic criteria necessarily alter the amount of fuel benefits a household might receive each winter. However, the changes to fuel procedures that the proposed rule contemplates, and that the Legislature requires, cannot fundamentally “restructure” the benefit-calculation formula, absent a rule change or new legislation.

For example, a household’s maximum allowable income and the household’s “percentage of poverty”—based on household size and gross income as a percentage of the federal poverty level—are established by procedure under current rule 2931, and proposed rule 2914(a) does not change this practice. Current rule 2942 establishes (outdated) household benefit levels as a function of the household’s poverty level. Updated benefit levels, retitled “percentage of benefits,” will also be established by proposed rule 2915, which reflects legislative changes enacted after 2009. This component of the benefit-calculation formula cannot be changed by Department-established fuel procedures, absent a rule change or new legislation. Notably, outdated primary heating fuel costs, established by current rules 2943-2944, were removed from the rule and established as procedures pursuant to 33 V.S.A. § 2604(c). Although this change may significantly affect benefit amounts depending on changes in fuel costs, this rule change (required by statute) does not permit the Department to fundamentally “restructure” the method of calculating benefits merely by changing its procedures. In short, the Legislature permits the Department to establish important benefit-calculation factors by procedure, but the way the Department uses these factors to calculate benefit amounts, i.e., the structure of the overall benefit-calculation formula, is established by rule and statute. The Department cannot unilaterally engage in any significant “benefit restructuring” by procedure without a change in law.

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Fuel Assistance Program

2900 **Fuel Assistance Program** (06/01/2024, 23-18)

- a. The Fuel Assistance Program is authorized and funded by the federal Low-Income Home Energy Assistance Program (LIHEAP) block grant ([42 U.S.C. §§ 8621–8630](#)), and through the State of Vermont Home Heating Fuel Assistance Program ([33 V.S.A. §§ 2601–2609](#)).
- b. It is the purpose of the Fuel Assistance Program to secure the safety and health of low-income Vermont households by providing essential home heating assistance.
- c. The Fuel Assistance Program offers both seasonal fuel assistance, rules 2900–2927, and crisis fuel assistance, rules 3100–3113.
- d. These rules are adopted pursuant to [33 V.S.A. § 2602\(b\)](#).

Definitions

- vi. Receives benefits under the Railroad Retirement Act of 1974 because of a disability considered permanent under Title XVI of the Social Security Act; or
- vii. Receives Vermont Medicaid because of a disability considered permanent under Title XVI of the Social Security Act.
- 4. “EBT” stands for electronic benefits transfer, which means benefits are accessed using a payment card to purchase allowable items at an authorized point of sale.
- 5. “Elderly” means a person 60 years of age or older.
- 6. “Fuel Household” or “Household” shall be interpreted in accordance with [33 V.S.A. § 2601a](#) and means any person or group of people who live together as one economic unit and either:
 - i. Customarily make purchases in common for home heating fuel; or
 - ii. Make undesignated payments for home heat in the form of rent.
- 7. “Head of Household” means any of the following:
 - i. A person who is financially responsible for the cost of occupying the living unit or separate living quarters;
 - ii. A person whose name appears on the real estate deed for the living unit; or
 - iii. The spouse or civil union partner of any person who meets the definition of head of household.
- 8. “Heating Season” means the period that begins when the Department first issues fuel benefits each year, on or after May 1, and ends April 30 of the following year.
- 9. “Individual in Foster Care” means a person in the custody of the Department for Children and Families, who has been placed in the living unit.
- 10. “Individual in Residential Home Care” means a person placed in the living unit by the Department of Mental Health or the Department of Disabilities, Aging, and Independent Living.

Definitions

11. “LIHEAP” means the Low-Income Home Energy Assistance Program authorized and funded by the federal LIHEAP block grant under [42 U.S.C. §§ 8621–8630](#).
12. “Living Unit” means a structure that meets all the following criteria:
 - i. Is occupied by one or more members of the household;
 - ii. Is used as the household’s primary domicile;
 - iii. Is one or more of the following:
 - A. Affixed to the ground on a permanent foundation;
 - B. A manufactured home as defined by [9A V.S.A. § 9-102\(a\)\(53\)](#); or
 - C. Permanently immobile and not accessing water or electricity from another living unit or building;
 - iv. Contains one or more rooms;
 - v. Contains bathroom facilities specific to that unit;
 - vi. Contains kitchen facilities specific to that unit; and
 - vii. Has either:
 - A. A private entrance from the outside; or
 - B. A private entrance from an enclosed hallway leading from the outside that does not pass through or offer open access to any other living unit within the structure.
13. “Medically Necessary Caregiver” means a person, who provides medically necessary personal care or services to an elderly or disabled person residing in the living unit, who is not:
 - i. The Head of household;
 - ii. The head of household’s spouse;
 - iii. The head of household’s civil union partner; or

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- iv. A minor child.
14. “Primary Heating Fuel” means the energy type listed in the Standard Heating Cost Tables that provides the largest portion of heat in the living unit.
15. “Reasonable Room Rent” means room rent paid in the 30 days prior to application, which must be more than or equal to the Housing Payment Maximum authorized under the General Assistance (GA) rules for a similarly situated housing type.
16. “Resident” means a person who has been physically present in the State of Vermont and intends to make Vermont one’s permanent home, regardless of how long the person has lived in the State.
- i. A person in Vermont involuntarily, or for a temporary purpose, is not a resident.
17. “Roomer” or “Boarder” means a person who occupies and has exclusive use of one or more rooms as separate living quarters and pays the reasonable room rent directly to the head of household in the living unit.
- i. Roomers or boarders may not be:
 - A. The head of household’s spouse;
 - B. The head of household’s civil union partner;
 - C. A minor child; or
 - D. An individual in foster care.
18. “Roomer or boarder household” means a fuel household consisting of one or more roomers or boarders and must include the following people living with the roomer or boarder:
- i. The roomer or boarder’s spouse;
 - ii. The roomer or boarder’s civil union partner;
 - iii. Any minor child (legally or biologically) related to any adult in the roomer or boarder household, unless excluded as an individual in foster care; and

Definitions

- iv. A child, parent, spouse, or civil union partner of any minor child residing in the roomer or boarder household.
19. “Separate Living Quarters” means exclusive use of one or more rooms for sleeping within a living unit.

Fuel Supplier Certification

2902 **Fuel Supplier Certification** (06/01/2024, 23-18)

- a. A primary heating fuel supplier must be certified by the director of the Fuel Assistance Program in order to provide home heating fuel to program beneficiaries.
- b. To be certified, fuel suppliers shall enter into certification agreements with the Department, consistent with statutory requirements ([33 V.S.A. § 2607](#)).
 1. Firewood or wood pellet suppliers are excluded from certification requirements.
- c. At a minimum, certification agreements must include:
 1. Pricing and delivery methods that are advantageous for beneficiaries;
 2. An agreement by the fuel supplier to not disclose any information about a beneficiary to any other person, including the name of the beneficiary, except for purposes directly connected with administration of the Fuel Assistance Program, or when required by law;
 3. An agreement by the fuel supplier to conduct reasonable efforts to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, and send periodic statements to beneficiaries informing them of their:
 - i. Account balance as of their last statement;
 - ii. Deliveries or usage since their last statement;
 - iii. Payments made or applied, indicating the source of payment, since their last statement; and
 - iv. The ending credit or debit balance;
 4. An agreement by the fuel supplier to provide the Department with beneficiary records on consumption and any other information as deemed necessary by the Department for efficient administration of the Fuel Assistance Program;
 5. An agreement by the fuel supplier that it will not discriminate against beneficiaries in the cost of goods, services provided, or fuel delivery;

Fuel Supplier Certification

6. An agreement by the fuel supplier to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies, provided the beneficiary meets accepted industry credit standards;
7. An agreement by the fuel supplier to grant beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or any additional terms the Department may negotiate with the fuel supplier; and
8. An agreement by the fuel supplier to only use benefit payments on a beneficiary's account for allowable purposes, as specified in the certification agreement, and to return all unused benefit payments on a beneficiary's account to the Department by the date specified in the agreement.

Seasonal Fuel Eligible Households

2903 Seasonal Fuel Eligible Households (06/01/2024, 23-18)

- a. Households may be eligible for fuel assistance benefits if they meet all the following criteria:
1. All the members of a household must be Vermont residents at the time of application for fuel assistance;
 - i. A person remains a resident until the person moves outside the State of Vermont with the intent to permanently reside elsewhere.
 2. A household member must be a citizen or national of the United States or a qualified immigrant under rule 2907;
 3. The total gross income of all fuel household members must not exceed 185% of the federal poverty guidelines based on household size;
 - i. Total fuel household gross income is based on the combined countable income of all persons residing in the fuel household, regardless of immigration status; and
 4. The head of household must spend at least 150 non-consecutive nights in their living unit between November 1 and April 30.
- b. Any person who resides in the living unit is included in the fuel household, unless they may be excluded as one of the following:
1. A roomer or boarder;
 2. A caretaker or companion;
 3. A medically necessary caregiver;
 4. An individual in foster care; or
 5. An individual in residential home care.
- c. The following people may not be excluded from the fuel household if that person resides in the living unit and is otherwise eligible for benefits:

Seasonal Fuel Eligible Households

1. The head of household;
2. The head of household's spouse;
3. The head of household's civil union partner;
4. Any minor child, unless excluded as an individual in foster care; or
5. A parent, spouse, or civil union partner of any minor child residing in the household.

Excluded Living Arrangements

2904 **Excluded Living Arrangements** (06/01/2024, 23-18)

- a. The following are not living units under these rules and residents of these places are ineligible for fuel assistance benefits:
1. Housing units owned or operated by educational, religious, and/or other institutions, which perform an educational, religious, or other service for the residents, are excluded if the heating costs are obligated, guaranteed, or in any way the responsibility, directly or indirectly, of the institution, or are integrated in any way with the service costs;
 2. Dormitories, teaching/training centers, transitional living centers, hospitals, retirement or rest homes, boarding houses, homeless shelters, communes, correctional facilities, jails, fraternity or sorority houses, or other forms of congregate living arrangements;
 3. Long-term care facilities, including:
 - i. Assisted living residences;
 - ii. Homes for persons who are terminally ill;
 - iii. Nursing homes;
 - iv. Residential care home; and
 - v. Therapeutic community residences;
 4. Lodging establishments and short-term rentals, as those terms are defined by [18 V.S.A. § 4301\(a\)](#); and
 5. Temporary living quarters or movable structures, including travel trailers, semitrailers, truck campers, motor homes, boats, campers, recreational vehicles, railroad cars, vans, cars, buses, tents, sheds, garages/shops, and fishing shacks, unless such structure has been modified to meet the definition of a living unit.

Application

3. The name of the household's electricity provider and the account number provided by the household's electricity provider associated with the household's primary residence; and
 4. Any other information required by the Department to facilitate the issuance of benefits to the household.
- h. The failure of a household to provide the information required by subsection (g) of this rule may delay the issuance of benefits to the household or result in the denial of the application.
- i. New applicants must provide documents to the Department to verify their identity and immigration status, pursuant to rules 2908.1 and 2908.2, at the time they submit their applications for fuel benefits.
1. The Department shall not process an application until it receives all necessary documents from an applicant.
 2. If an applicant does not provide all the necessary documents to process an application, the Department may contact the applicant to request such documents.
- j. The Department must deny the application if the Department is unable to verify the identity or immigration status of any applicant.

Eligibility Review

2906 **Eligibility Review** (06/01/2024, 23-18)

- a. The Department shall issue annual eligibility reviews to households that received fuel benefits in the previous year and continue to be active in the Fuel Assistance Program.
 1. Households that are eligible for 3SquaresVT benefits may have their eligibility reviewed at intervals of 12 months, 24 months, or 36 months, depending on household composition and income.

- b. The Department shall review eligibility when changes are reported that may impact eligibility.

U.S. Citizen, National, or Qualified Immigrant

2907 **U.S. Citizen, National, or Qualified Immigrant** (06/01/2024, 23-18)

- a. To receive fuel assistance benefits, at least one member of the household must be a:
 1. Citizen or national of the United States; or
 2. Qualified immigrant.
- b. Applicants must declare the citizenship and immigration status of all household members on the seasonal fuel assistance application.
 1. Non-citizens must provide documentation of immigration status.
 2. The Department must verify immigration status in accordance with rule 2908.2.
- c. For purposes of these rules, a “non-citizen” is a person who is not a citizen or national of the United States.
- d. A “citizen or national of the United States” is:
 1. A person born in the 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, or Swains Island, except for individuals born to foreign diplomats;
 2. A naturalized U.S. citizen; or
 3. An individual who otherwise qualifies as a citizen or national of the United States under federal law.
- e. A “qualified immigrant” shall have the same meaning as a “qualified alien” under [8 U.S.C. § 1641](#), which includes:
 1. A non-citizen granted Permanent Resident Alien Status under the Immigration and Nationality Act (INA);
 2. A non-citizen granted asylum under § 208 of the INA;

U.S. Citizen, National, or Qualified Immigrant

3. A refugee admitted to the United States under § 207 of the INA;
 4. A non-citizen paroled into the United States under § 212(d)(5) of the INA for a period of at least one year;
 5. An immigrant whose deportation has been withheld under:
 - i. Section 243(h) of the INA, as in effect prior to April 1, 1997; or
 - ii. Section 241(b)(3) of the INA, as amended by § 305(a) of division C of Public Law 104-208;
 6. An immigrant granted conditional entry under § 203(a)(7) of the INA, as in effect prior to April 1, 1980;
 7. A Cuban or Haitian entrant, as defined in § 501(e)(2) of the Refugee Education Assistance Act of 1980;
 8. A non-citizen who (or whose child or parent) has been battered or subjected to extreme cruelty in the United States and otherwise satisfies the requirements of [8 U.S.C. § 1641\(c\)](#);
 9. A victim of a severe form of human trafficking who has been certified or received an eligibility letter by the U.S. Office of Refugee Resettlement; or
 10. Any other non-citizen whom Congress permits to receive fuel assistance.
- f. No immigrant or non-citizen is eligible for fuel assistance unless that person is a qualified immigrant.
1. An immigrant illegally residing in the United States does not qualify for fuel assistance.
- g. Qualified immigrants may apply for fuel assistance at any time regardless of when they entered the United States.
- h. Rule 2907 shall be construed in accordance with federal law, and in the event of a conflict, federal law controls.

Verification

2908 **Verification** (06/01/2024, 23-18)

- a. When the Department has reason to question the eligibility of a household for benefits, the Department may require the household to provide additional evidence to verify one or more eligibility factors.
 - 1. If the Department requires a household to provide additional evidence to verify an eligibility factor, the Department must notify the head of household.
 - 2. If the Department provides a head of household with a written notice requiring additional evidence to verify an eligibility factor, the household must provide sufficient evidence to the Department no later than ten days after the date of the written notice.
 - 3. If the Department does not receive sufficient evidence within ten days after the date of the written notice, the Department must deny the application or close the case.
 - 4. If a household provides the Department with sufficient evidence to verify the eligibility of a household after the application is denied, but within 30 days of the date after the application is received, the Department must reprocess the application using the date the application was initially received by the Department.
 - 5. If a household provides the Department with evidence after the application is denied, and more than 30 days after the date the application is received, the head of household must submit a new application for fuel assistance.

- b. The head of household shall be primarily responsible for providing verification.
 - 1. With the household's consent, the Department must assist in the verification process if the household is unable to obtain the required evidence.

- c. The Department must verify all sources of household income, and a person's self-declaration of income, by itself, shall not be an acceptable method of verification.
 - 1. Notwithstanding this subsection (c) of this rule, if the Department is unable to verify self-employment income because a business has been in operation for less than one year and has not filed income tax forms, then the household member must provide:

Verification

- i. A signed statement of self-employment income on a form provided by the Department;
and
 - ii. Any other receipts or documents related to the business that the Department requests.
- d. The Department must use automated resources or electronic databases, such as the Income and Eligibility Verification System (IEVS), whenever possible for verification.
1. A household may provide other documentation if it disagrees with the results of the automated or electronic search.
- e. The Department may only contact third parties about the household:
1. To verify a household's eligibility for benefits;
 2. To substantiate facts when necessary for the administration of the program; or
 3. When otherwise required by law.
- f. Failure on the part of the head of household, or any other person residing in the living unit, to engage in the following actions shall result in a denial of benefits to the entire fuel household:
1. Submit required information;
 2. Provide documentation necessary for required verification;
 3. Consent to third-party verification of any eligibility factor; or
 4. Cooperate in obtaining required verification.
- g. When the head of household seeks to have a person excluded from the fuel household, they may be required to provide evidence that substantiates that this person qualifies for exclusion under rule 2903(b).
1. For a roomer or boarder, proof of payment of reasonable room rent is required for verification.
 2. For a caretaker or companion, the head of household must complete a form provided by the Department.

Verification

3. For a medically necessary caregiver, the head of household must complete a form provided by the Department.
 - i. This form must be completed and signed by the elderly or disabled person's physician or other licensed health care provider.
- h. The Department must verify the identity of the applicant in accordance with rule 2908.1.

2908.1 Verification of Identity (06/01/2024, 23-18)

- a. The Department must verify the identity of the head of household in accordance with this rule and rule 2908.
- b. If the head of household has an authorized representative, the Department must verify the identity of the authorized representative and the head of household.
- c. The Department must verify the identity of the head of household and authorized representative using readily available documentary evidence, including any of the following:
 1. Employment photo ID;
 2. State-issued ID, such as a driver's license;
 3. Pay stub;
 4. Birth certificate;
 5. Voter registration card;
 6. Library card;
 7. U.S. passport;
 8. IEVS match;
 9. Numerical identification (Numident) match with the Social Security Administration;
 10. Baptismal certificate;
 11. Military ID or service papers;

Verification

12. Immigration or naturalization papers;
 13. Hospital birth record;
 14. Adoption record;
 15. Completed SS-5 Form;
 16. Confirmation or church membership records;
 17. Court orders for spousal or child support, divorce, or name change;
 18. Marriage license;
 19. Newspaper birth announcement;
 20. Certain school records, such as a student ID, report card, or diploma;
 21. Census records;
 22. ID for health benefits, for example, a Medicare card;
 23. ID for public assistance or social service program; or
 24. Labor union or fraternal organization records.
- d. The Department must accept any documents that reasonably establishes a person's identity;
1. The Department may not require a specific type of document, such as a birth certificate, to verify identity.

2908.2 Verification of Immigration Status (06/01/2024, 23-18)

- a. The Department may accept a declaration that a person is a citizen or national of the United States as proof that the person meets the eligibility requirement of rule 2907.
- b. If the Department has reason to question whether a person is a citizen or national of the United States, the Department may require the household member to provide additional evidence or documents to substantiate or verify citizenship.

Verification

1. The Department must not require a person to provide evidence or documents to substantiate that the person is a citizen or national of the United States based solely on:
 - i. Race, color, or ethnicity;
 - ii. Dress or appearance;
 - iii. Religion;
 - iv. National origin;
 - v. Language or accent;
 - vi. Ethnic name; or
 - vii. Any combination of the factors above.
- c. All non-citizens must provide appropriate documentation of immigration status.
- d. The household must provide the Department with all required documentation in a timely manner.
 1. The Department must refer to guidance published by the U.S. Department of Justice or the U.S. Citizenship and Immigration Services to determine acceptable documentation to verify citizenship or immigration status.
- e. Except as provided in this rule, the Department must verify the immigration status of every non-citizen in a household using SAVE (Systematic Alien Verification for Entitlements) or another immigration status verification system established by the federal government.
- f. The Department must not attempt to verify the immigration status of a household member if:
 1. The household member requested the Department not to contact federal immigration authorities; or
 2. The household member refuses to provide documentation of their citizenship or immigration status.
- g. If the Department cannot verify the citizenship or immigration status of a person:
 1. The Department must not count that person as a household member when calculating household size; and
 2. The Department must include that person's income when calculating household income.

Social Security Numbers

2909 **Social Security Numbers** (05/01/2024, 23-18)

- a. A household must provide the Department with the Social Security Number (SSN) of every household member who is six months of age or older.
 - 1. If a member has more than one SSN, all numbers must be provided.
- b. If a household is unable to provide the SSN of a member (who is six months of age or older), either because the SSN is not known or has not been issued, the household must do all of the following:
 - 1. Apply for an SSN for the member;
 - 2. Provide the Department with proof that the SSN has been applied for; and
 - 3. Provide the Department with the SSN when it is received.
- c. If, without good cause, a household does not provide a member's SSN, or proof that the member applied for an SSN:
 - 1. The Department must not count that person as a household member when calculating household size; and
 - 2. The Department must include that person's income when calculating household income.
- d. A household has good cause for not providing a member's SSN (or proof of application for one) under any of the following circumstances:
 - 1. A household has good cause if the member without an SSN is under six months old.
 - 2. A household has good cause if the member refuses to provide or apply for an SSN based on a sincere religious objection.
 - i. The Department may check with the Social Security Administration to see if the household members already have SSNs, and may use any existing SSNs for verification and matching purposes without further notice to the household; or

Social Security Numbers

- ii. The Department may use its own numbering system for internal administrative purposes to keep track of household members who do not have SSNs because of religious objections.
- 3. A household has good cause if there is evidence that the household is making every effort to supply the Social Security Administration with the necessary information to obtain an SSN.
 - i. Good cause does not include delays due to illness, lack of transportation, or temporary absences.
- e. A person who is disqualified under subsection (c) of this rule may become an eligible household member upon providing the Department with an SSN.

Gross Income

2910 **Gross Income** (06/01/2024, 23-18)

- a. Total household income shall be the combined gross income of all members of the fuel household, regardless of immigration status, unless otherwise excluded under rule 2912.

- b. To the extent allowed by federal law, gross income shall be calculated based on the same rules used to calculate income in the 3SquaresVT program.

Household Income Sources

2911 **Household Income Sources** (06/01/2024, 23-18)

- a. Income means any monetary payment that is available to the fuel household from any source, unless excluded by rule 2912.

- b. Sources of income include:
 - 1. Earned income (rule 2911.1);
 - 2. Unearned income (rule 2911.2); and
 - 3. Self-employment income (rule 2911.3).

- c. The Department must calculate a household's monthly income as follows:
 - 1. The Department must calculate self-employment income in accordance with rule 2911.3.
 - 2. The Department must consider all earned income and unearned income received by the household in the 30 days before the date that the Department received the household's application for fuel benefits:
 - i. If a stable source of income was received by the household during this period on a weekly, biweekly, semimonthly, or monthly basis, the Department must convert this income to a monthly amount:
 - A. By multiplying weekly amounts by 4.3;
 - B. By multiplying biweekly amounts by 2.15;
 - C. By multiplying semimonthly amounts by 2; or
 - D. By multiplying monthly amounts by 1.
 - ii. If a stable source of income is received by the household less often than monthly, the Department must convert this income received during the previous 30 days into a monthly amount by averaging the income over the period the income is intended to cover.

Household Income Sources

A. For example, if a household regularly receives \$1,000 every two months, then the monthly income from this source is \$500.

iii. If the income received by the household during the previous 30 days was irregular or fluctuated, the Department may consider the earned and unearned income received by the household over a longer period, generally 90 days before the Department received the application, to calculate the household's average monthly income.

d. Households must report a change of income to the Department within ten days of the date the change occurred in accordance with rule 2923.

2911.1 Earned Income (06/01/2024, 23-18)

a. Earned income is money gained from the performance of service, labor, or work, regardless of the legality of the performance or the payment.

b. Earned income includes, but is not limited to:

1. Gross wages, salaries, commissions, and tips;
2. Payments for services; and
3. Training allowances from vocational and rehabilitative programs, unless the payments are reimbursements excluded under rule 2912(a)(10).

2911.2 Unearned Income (06/01/2024, 23-18)

a. Unearned income is money or contributions received by a person for which they do not perform work or provide a service.

b. Unearned income includes, but is not limited to:

1. Assistance payments from Federal, federally aided, or State-funded public assistance programs, such as Supplemental Security Income (SSI), Reach Up, General Assistance (GA), or other assistance based on need;

i. Such assistance is unearned income, even if provided in the form of a vendor payment to a third party on behalf of the household, unless excluded under rule 2912;

Household Income Sources

- ii. Assistance payments from programs that require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, are considered unearned income;
- 2. Annuities;
- 3. Pensions;
- 4. Retirement benefits;
- 5. Veteran's benefits;
- 6. Disability benefits;
- 7. Worker's compensation, including any amounts deducted to repay claims for intentional program violations;
- 8. Unemployment compensation, including any amounts deducted to repay claims for intentional program violations;
- 9. Survivors or social security benefits;
- 10. Strike benefits;
- 11. Foster care payments for individuals in foster care who are considered members of the household;
- 12. Difficulty of care payments for individuals in residential home care who are considered members of the household;
- 13. Gross income, minus costs, from rental property if the property is not managed by a member of the fuel household;
- 14. Child support or alimony payments made directly to the household from non-household members;
- 15. Scholarships, educational grants, deferred payment loans for education, or veteran's educational benefits that do not have a work requirement attached to them, unless excluded under rule 2912;

Household Income Sources

16. Payments from dividends, interest, royalties, or all other direct money payments from any source that can be construed to be a gain or benefit; or
17. Money that is withdrawn or dividends that are, or could be, received by a household from trust funds;
 - i. Such trust withdrawals shall be considered income in the month received, unless excluded under rule 2912;
 - ii. Dividends that the household has the option to receive as income or to reinvest in the trust are income in the month the dividends become available to the household, unless excluded under rule 2912.

2911.3 Self-Employment Income (06/01/2024, 23-18)

- a. Self-employment means that a person earns money directly from the person's own business or profession, rather than as an employee working for wages or a salary from an employer.
 1. Income from rental property owned by a household member shall be considered self-employment income unless the property is managed by someone who is not a member of the fuel household.
 - i. If the rental property is managed by someone who is not a member of the household, the income shall be considered unearned income.
 2. Payments from a roomer or boarder shall also be considered self-employment income.
- b. The Department must calculate self-employment income using the same rules and procedures used to calculate self-employment income for the 3SquaresVT program.
- c. The Department must verify all self-employment income in accordance with rule 2908.

Excluded Income

2912 **Excluded Income** (06/01/2024, 23-18)

a. Income shall not include any of the following:

1. Money withheld from the household's income to repay a prior overpayment from that source;
2. Money the household received, but voluntarily or involuntarily returned, to repay a prior overpayment from that income source;
3. Child support payments transferred to the Office of Child Support to maintain Reach Up eligibility;
 - i. Child support payments are excluded at the date the payment is assigned;
4. Any non-monetary or in-kind gain or benefit provided to the fuel household or a vendor, including:
 - i. Meals;
 - ii. Clothing; or
 - iii. Garden produce;
5. The following vendor payments:
 - i. Payments by a person outside the fuel household or by an organization to a third party for a household's expense when the payment is not legally owed to the household;
 - ii. Payments through the 3SquaresVT program;
 - iii. Rent or mortgage payments made to a landlord or lender on behalf of the fuel household by:
 - A. The U.S. Department of Housing and Urban Development (HUD);
 - B. The State; or
 - C. Local housing authorities;

Excluded Income

- iv. Payments by a government agency or program to a third party on behalf of the household to pay the household's medical or childcare expenses;
 - v. Payments through the fuel assistance program (LIHEAP);
 - vi. Housing assistance when the fuel household lives in temporary housing;
 - vii. Payments converted to a direct cash payment when approved by a federally authorized demonstration project;
 - viii. General Assistance or Reach Up vendor payments for the housing and transportation of migrant and seasonal farmworker households, while workers are in the job stream;
 - ix. A vendor payment for educational assistance is excluded income if the same payment to the household would be excluded income under rule 2912(a)(7) or rule 2912(a)(8);
 - x. Reimbursements made in the form of vendor payments are excluded on the same basis as reimbursements paid directly to the household under rule 2912(a)(10); and
 - xi. Disaster assistance payments made to vendors are excluded income if the same payment to the household would be excluded income under rule 2912(a)(15);
6. Any income in the certification period that is received too infrequently or irregularly to be reasonably anticipated, but not more than \$30 in a quarter;
 7. All student financial assistance received under Title IV of the Higher Education Act, as amended, or under Bureau of Indian Affairs student assistance programs, regardless of use;
 - i. This includes all student financial assistance covered by [20 U.S.C. § 1087uu](#);
 - ii. A list of qualifying educational assistance may be found in the Fuel Procedures Manual;
 8. Other scholarships, grants, deferred-payment student loans, and veterans' educational benefits, not included under rule 2912(a)(7), if the educational assistance is both:
 - i. Awarded to a household member enrolled at a:

Excluded Income

- A. Recognized institution of post-secondary education, such as an accredited college or university;
 - B. School for the disabled;
 - C. Program that provides for obtaining a secondary school diploma or the equivalent;
 - D. Vocational or technical school; or
 - E. Vocational education program; and
- ii. Used for the following allowable expenses:
- A. Tuition;
 - B. Mandatory fees, including rental or purchase of any equipment, material, and supplies related to the course of study pursued;
 - C. Books;
 - D. Transportation;
 - E. Miscellaneous personal expenses incidental to attending a school, institution, or program;
 - 1. Educational assistance is not excluded as income if used for normal living expenses, such as room and board;
 - F. Dependent care; or
 - G. Origination fees and insurance premiums on educational loans;
9. All loans, including loans from private individuals and commercial institutions, other than educational loans on which repayment is deferred;
- i. A loan on which repayment must begin within 60 days after receipt of the loan shall not be considered a deferred repayment loan;

Excluded Income

10. All reimbursements for past or future expenses as long as the reimbursements meet all of the following criteria:
 - i. The reimbursement does not exceed actual expenses;
 - A. If the reimbursement exceeds actual expenses, count the excess as unearned income;
 - B. A reimbursement does not exceed actual expenses unless the provider or the household says it exceeds actual expenses;
 - ii. The reimbursement does not result in a gain or benefit to the household; and
 - iii. The reimbursement is identified and used for expenses other than normal living expenses (such as rent, mortgage, personal clothing, or food eaten at home);
 - A. A reimbursement shall be considered income if the payment is not identified for a specific purpose or the payment is not used for that purpose;
 - B. If a reimbursement covers multiple expenses, each expense does not have to be separately identified, as long as none of the money covers ordinary living expenses;
 - C. The following are examples of excluded reimbursements:
 1. Reimbursements or flat allowances, over and above basic wages, for job-related or training-related expenses, such as per diem, uniforms, and transportation to or from the job or training site;
 2. Reimbursements for the out-of-pocket expenses volunteers incur in the course of their work;
 3. Medical or child care reimbursements;
11. Money received and used for the care and maintenance of a third-party beneficiary, who is not a household member;
 - i. If the intended beneficiaries of a single payment are both household and non-household members, any identifiable portion of the payment intended and used for the care and maintenance of the non-household member shall be excluded;

Excluded Income

- ii. If the non-household member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the non-household member's pro rata share or the amount actually used for the non-household member's care and maintenance, whichever is less;
12. The earned income of any household member who is under age 18 who both:
- i. Lives with a parent or is under the parental control of a household member other than a parent; and
 - ii. Is a student at least half time attending an elementary or high school, a recognized home school, or a GED program recognized, operated, or supervised by the State or a local school district;
 - A. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break;
13. Money received in a nonrecurring lump-sum payment, including payments received as a one-time payment for:
- i. Income tax refunds, rebates, or credits, including the Vermont Earned Income Tax Credit (EITC);
 - ii. Retroactive lump sums for the past one month or more, such as Social Security, SSI, Reach Up, Unemployment Benefits, or other retroactive payments;
 - A. If retroactive SSI benefits are paid out in more than one payment, each retroactive payment is a nonrecurring lump sum and is excluded as income;
 - iii. The annual VA disability pension adjustment;
 - iv. Insurance settlements;
 - v. Reach Up parenting incentive payments;
 - vi. Refunds of security deposits on rental property or utilities, including HUD rental refunds;

Excluded Income

- vii. Money from the sale of a household's property (such as the household's homestead, personal effects, household goods, or an automobile) that are not sold as part of a self-employment business;
 - viii. Retroactive pay raises of an employee whether employed or not at the time of receipt;
 - ix. A bonus received after employment has stopped; or
 - x. Back pay that was not withheld at the request of the employee;
14. Payments received from the 3SquaresVT program;
15. Disaster and Emergency Assistance payments provided under the Disaster Relief and Emergency Assistance Act, as amended (Public Law 100-707);
- i. This exclusion applies to Federal assistance provided to people directly affected by a disaster or emergency, and to comparable disaster assistance provided by States, local government, and disaster assistance organizations;
 - ii. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;
16. Any income that is specifically excluded by any other Federal statute from consideration as income for the purpose of determining eligibility for federal benefits, including:
- i. Payments made to certain Native Americans under Federal law, included the laws listed in the appendix to 20 C.F.R. Part 416, Subpart K;
 - ii. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Public Law 91-646);
 - iii. Payments to volunteers by the Corporation for National and Community Service under the Domestic Volunteer Services Act of 1973 (Public Law 93-113) as amended, unless the payments are greater or equal to the federal minimum wage;
 - iv. Payments made for children who suffer from birth defects and whose mothers are Vietnam veterans (Public Law 106-419);

Excluded Income

- v. Payments made to a child of a Vietnam Veteran for any disability of the child resulting from Spina Bifida (Public Law 104-204, § 1805(d));
 - vi. Payments made to Americans of Japanese or Aleut ancestry under Public Law 100-383;
 - vii. Payments made from the Agent Orange Settlement Fund (Public Law 101-201 and Public Law 101-239);
 - viii. Payments made to victims of Nazi Persecution under Public Law 102-286; or
 - ix. Payments made under the Radiation Exposure Compensation Act to compensate injury or death resulting from exposure to radiation from nuclear testing and uranium mining (Public Law 101-426);
17. Payments or allowances made under any federal or state law for providing energy assistance, including payments from:
- i. The Fuel Assistance Program (including nominal payments);
 - ii. The Department of Housing and Urban Development (HUD), even if the payment is received directly by the fuel household; or
 - iii. The Farmers Home Administration (FmHA);
18. Cash donations based on need when the fuel household receives them from one or more private, nonprofit, or charitable organizations;
- i. Do not exclude more than \$300 per federal fiscal quarter, and count any amount over the \$300 limit as unearned income;
19. Crowdfunding account payments received from online platforms such as Go Fund Me, Kickstarter, Indiegogo, or Tilt;
20. Federal or Vermont earned income tax credits;
21. Any payment made to an Employment and Training participant for costs that are reasonably necessary and directly related to participation in the Employment and Training program, including:

Excluded Income

- i. Dependent care;
 - ii. Transportation;
 - iii. Other expenses related to work;
 - A. These costs shall not include the cost of meals away from home;
 - iv. Training or education;
 - v. Uniforms;
 - vi. Other necessary equipment; and
 - vii. Books or training manuals;
22. Governmental foster care payments for individuals in foster care who are not considered members of the household;
- i. If a household indicates that an individual in foster care is a household member, then foster care payments for that individual are considered unearned household income;
23. The amount of money necessary to fulfill SSI's Plan for Achieving Self-Support (PASS), including money deposited into a special PASS account; or
24. Additional payments, beyond basic pay, received by members of the United States Armed Forces, including the Reserves and National Guard, resulting from deployment to or service in a designated combat zone (Public Law 108-447).
- i. These special payments are excluded as income for the duration of the person's deployment.
 - ii. Payments made before the person's deployment or service are counted as earned income.

Income Maximum

2913 **Income Maximum** (06/01/2024, 23-18)

- a. Eligibility for fuel assistance benefits shall be based on a household’s gross income calculated pursuant to rule 2910.
- b. A fuel household is not eligible for seasonal fuel benefits if the household’s gross income exceeds 185% of the federal poverty guidelines or exceeds the income maximums established by LIHEAP.
- c. The allowable income maximum for each household size shall be updated in the Fuel Procedures Manual in accordance with the federal poverty guidelines published by the U.S. Department for Health and Human Services.

Calculation of Benefits

2914 **Calculation of Benefits** (06/01/2024, 23-18)

- a. The Department must calculate a household's benefit amount by following the steps below in order:
1. Determine household size by counting the number of persons residing in the living unit, excluding those persons who are ineligible or who are not considered members of the household under these rules;
 2. Determine the household's gross income in accordance with rules 2910–2912;
 3. Determine the maximum allowable income based on the household's size using the table in the Fuel Procedures Manual;
 - i. If gross income is more than the maximum allowable income based on the household's size, the household is ineligible for fuel benefits;
 4. Determine the percentage of poverty based on the household's size and gross income using the table in the Fuel Procedures Manual;
 5. Determine the percentage of benefits under rule 2915 using the percentage of poverty determined above in step 4;
 6. Determine the annual primary heating fuel cost, based on the type and size of the household's living unit, using the Standard Heating Cost Tables in the Fuel Procedures Manual;
 7. Determine the base benefit amount by multiplying the percentage of benefits (determined in step 5) and the household's annual primary heating fuel cost (determined in step 6); and
 8. Determine the ratable benefit amount by multiplying the base benefit amount (determined in step 7) and the payment rate, which is established by procedure based on the number of eligible households and the amount of funds available for Fuel Program benefits;
 - i. The payment rate must not exceed 100%; and
 - ii. The Department may adjust the payment rate at any time if the total amount of funds available to the Fuel Assistance Program or the total number of eligible households changes during a heating season.

Calculation of Benefits

- b. The Department must reduce the ratable benefit amount (determined in step 8 above) based on the month it receives the household's fuel assistance application as follows:
 1. For applications received in December, the annual benefit must be reduced to 80% of the ratable benefit amount.
 2. For applications received in January, the annual benefit must be reduced to 60% of the ratable benefit amount.
 3. For applications received in February, the annual benefit must be reduced to 40% of the ratable benefit amount.
 4. For all other applications, subsection (b) of this rule shall not apply.
 - i. Applications received in any other month shall be used to calculate the annual benefit for the heating season that begins in the year the application is received.
 5. The benefit reductions in subsection (b) of this rule shall not be considered penalties for late-filed applications but instead ensure that households receive prorated benefits and do not receive benefits for any period during the heating season prior to the month of application, in accordance with [33 V.S.A. § 2606\(b\)](#).
- c. After the Department reduces the ratable benefit amount, if required by subsection (b) of this rule, the Department must make further reductions to determine the annual benefit amount as follows:
 1. Eligible households that do not live in Section 8 housing, or other public housing, and that make primary heating fuel payments directly to a certified fuel supplier, shall receive 100% of the amount calculated pursuant to subsections (a) and (b) of this rule.
 2. Eligible households that do not live in Section 8 housing, or other public housing, and that have their primary heating fuel cost included in their rent, shall receive 30% of the amount calculated pursuant to subsections (a) and (b) of this rule;
 - i. If the annual benefit amount calculated under this provision is less than \$50.00, then those households subject to this provision must receive a minimum of \$50.00 in annual fuel benefits.

Calculation of Benefits

3. Eligible households that live in Section 8 housing, or other public housing, and that make primary heating fuel payments directly to a certified fuel supplier, shall receive 55% of the amount calculated pursuant to subsections (a) and (b) of this rule.
 4. Eligible households that live in Section 8 housing, or other public housing, and that have their primary heating fuel cost included in their rent, shall receive an annual nominal benefit in an amount (\$21.00) set by [33 V.S.A. § 2605](#).
 5. Eligible roomer or boarder households shall receive an annual nominal benefit in an amount (\$21.00) set by [33 V.S.A. § 2605](#).
- d. Before issuing fuel assistance benefits, the Department must round down the net benefit amount calculated under this rule to the next whole dollar.

Percentage of Benefits

2915 **Percentage of Benefits** (06/01/2024, 23-18)

- a. The table in this rule establishes the percentage of fuel benefits that a household is eligible for based on the household’s percentage of poverty.
- b. A household’s percentage of poverty depends on the household’s size and gross income and is determined using the table in the Fuel Procedures Manual, which is based on the federal poverty guidelines.
- c. A household’s benefit shall not exceed 90% of that household’s fuel cost.
- d. Percentage of Benefit based on the Federal Poverty Guideline Table:

Percentage of Benefit Based on Federal Poverty Guidelines	
Household Income as it Relates to Percentage of Federal Poverty Guideline	Percentage of Benefit Amount Available to the Household
175 % - 185%	27%
165% - 174%	30%
155% - 164%	33%
145% - 154%	66%
135% - 144%	69%
125% - 134%	72%
115% - 124%	75%
105% - 114%	78%
95% - 104%	81%
85% - 94%	84%
75% - 84%	87%
Under 75%	90%

Development of the Standard Heating Cost Tables

2916 **Development of the Standard Heating Cost Tables** (06/01/2024, 23-18)

- a. The Department must establish Standard Heating Cost Tables in the Fuel Procedures Manual and use those Tables to calculate benefits.
- b. The Tables must list the types of energy an eligible household must use as a primary heating fuel to receive fuel assistance benefits.
- c. The Tables must contain estimated primary heating fuel costs based on the actual home heating costs of Fuel Assistance Program beneficiaries used during a year.
- d. The Department must review the Tables at least once every three years and make any changes necessary using data from certified fuel suppliers, the Department of Public Service, and other industry sources.
- e. The Department must provide a draft of the Tables to the Home Energy Assistance Task Force and solicit input from the Task Force before finalizing the Tables.

Benefit Issuance

2917 **Benefit Issuance** (06/01/2024, 23-18)

- a. Regardless of a household’s eligibility, the Department may issue fuel benefits only if there are funds available that have been appropriated for fuel assistance payments.
 - 1. If funds become unavailable, the Department must stop issuing fuel benefits, regardless of a household’s eligibility.
 - 2. If funds remain available, the Department must stop issuing fuel benefits at the end of each heating season, regardless of a household’s eligibility.
 - i. Benefits issued after April 30 each year shall count as benefits issued during the heating season that begins on or after May 1 of the year those benefits are issued.
- b. The Department may use any method of payment, including EBT and direct deposit in a financial institution, to issue benefits to eligible households, and the Department shall have sole discretion to determine which method of payment it uses for each household.
 - 1. In its sole discretion, the Department may also change the method it pays benefits to a given household at any time.
 - 2. Households may not require the Department to use any particular method of payment.

Benefit Payment Schedule

2918 **Benefit Payment Schedule** (06/01/2024, 23-18)

- a. The Department must issue a single annual benefits payment to each eligible household, or to the household's certified fuel supplier, according to the schedule established in this rule.
- b. The dates on which the Department issues benefits depend on several factors, including the date the Fuel Assistance Program receives funds, and vary from year to year.
- c. The timeframes provided in this rule are general and are intended to illustrate the order in which benefits may be issued.
 1. Depending on circumstances, the Department may issue benefits before or after the dates provided in this rule.
- d. For households that use firewood or wood pellets as their primary heating fuel, the Department must issue payment as follows:
 1. The Department must issue payment before October 1 to all households that had their applications or continued eligibility approved before the date the Department issued such payment.
 2. If such a household submits an application or has its eligibility reviewed after the Department issues payment under subsection (d)(1) of this rule, but before the following March 1, the Department must issue payment to the household reasonably promptly after the application or continued eligibility is approved.
- e. For roomer or boarder households and for households that live in Section 8 housing, or other public housing, and that have their primary heating fuel cost included in their rent, the Department must issue payment as follows:
 1. The Department must issue payment before November 1 to all households that had their applications or continued eligibility approved before the date the Department issued such payment.
 2. If such a household submits an application or has its eligibility reviewed after the Department issues payment under subsection (e)(1) of this rule, but before the following March 1, the Department must issue payment to the household reasonably promptly after the application or continued eligibility is approved.

Benefit Payment Schedule

- f. For households that make primary heating fuel payments directly to a certified fuel supplier, the Department must issue payment as follows:
 - 1. The Department must issue payment before December 1 to the certified fuel suppliers of all households that had their applications or continued eligibility approved before the date the Department issued such payment.
 - 2. If such a household submits an application or has its eligibility reviewed after the Department issues payment under subsection (f)(1) of this rule, but before the following March 1, the Department must issue payment to the household's certified fuel supplier reasonably promptly after the application or continued eligibility is approved.

- g. For households that have their primary heating fuel cost included in their rent, and do not live in Section 8 housing or other public housing, the Department must issue payment as follows:
 - 1. The Department must issue payment before January 1 to all households that had their applications or continued eligibility approved before the date the Department issued such payment.
 - 2. If such a household submits an application or has its eligibility reviewed after the Department issues payment under subsection (g)(1) of this rule, but before the following March 1, the Department must issue payment to the household reasonably promptly after the application or continued eligibility is approved.

- h. The Department may issue an annual nominal payment to households receiving 3SquaresVT benefits that are not receiving fuel assistance.
 - 1. The Department may begin issuing payment to such a household on any day and then annually after that, unless there are changes in circumstances that affect the household's eligibility for this payment, such as an approved application for fuel benefits.

Use of Benefit Payments

2919 **Use of Benefit Payments** (06/01/2024, 23-18)

- a. For benefits paid to certified fuel suppliers for primary heating fuel, except firewood or wood pellets:
 - 1. Benefits shall be used only for primary heating fuel purchased on or after November 1 until the end of April 30, subject to rule 2921(c).
 - i. No fuel supplier may pay a fuel benefit or credit balance directly to a fuel household under any circumstances.
 - ii. Fuel benefits may only be used to purchase primary heating fuel, and fuel benefits may not be used for any other purpose, including repairs to a heating system, parts, special trip charges, or labor.
 - iii. An eligible household that has an outstanding bill with its primary heating fuel supplier may use up to 17% of the benefit amount to pay for fuel delivered before November 1, provided all the following conditions are met:
 - A. The fuel supplier and customer agree to use up to 17% of the benefit toward an outstanding balance for fuel delivered before November 1; and
 - B. The fuel supplier and customer enter into an agreement for a budget plan or repayment plan for the remaining balance.
 - 2. Subject to rule 2921(c), if a household has any remaining fuel benefits on account with a fuel supplier at the end of the day on April 30 each year, the household may not use those benefits, which the supplier must return to the Department no later than May 31 of the same year.
- b. For benefits paid to an eligible fuel household for firewood or pellets:
 - 1. Benefits may only be used to purchase firewood or pellets as primary heating fuel.
 - 2. Benefits may only be used from the date of issuance until the end of the following April 30, subject to rule 2921(c).
 - 3. Receipts for the purchase of firewood or pellets must be obtained and retained when using fuel benefit funds.

Use of Benefit Payments

4. A household that receives benefits for firewood or pellets must produce all fuel receipts to the Department upon request.
5. The household must repay the Department the amount of any fuel benefits that are not properly accounted for in the receipts, and the Department may recoup any money owed by the household under this rule pursuant to rule 2925.

One-Time Benefits

2920 **One-Time Benefits** (06/01/2024, 23-18)

- a. At the sole discretion of the Department's Commissioner, the Department may issue additional one-time fuel benefits if funding is available.
 - 1. Nothing in these rules shall require the Commissioner to authorize one-time benefits, regardless of the funding available to the Fuel Assistance Program or the Department.
- b. Upon the Commissioner's authorization of one-time benefits, the Department must establish a procedure to determine:
 - 1. The amount of the benefits;
 - 2. The households entitled to a benefit;
 - 3. The methods of distribution of the benefits;
 - 4. The dates when the benefits are issued;
 - 5. Any limitations on the issuance and use of benefits; and
 - 6. Any other details necessary to effectuate this rule.
- c. The Department may establish different procedures under subsection (b) of this rule each time the Commissioner authorizes one-time benefits.
- d. The Department may issue different one-time payment amounts, including an amount of zero, to each household depending on the household's circumstances.

Credit Balances

2921 **Credit Balances** (06/01/2024, 23-18)

- a. All benefit payments made to certified fuel suppliers remain the property of the State of Vermont until used for the purchase of primary heating fuel by eligible households.
- b. Every year in which a credit balance exists at the end of the day on April 30, the fuel supplier must refund the amount of the balance to the Department no later than May 31 of the same year.
- c. At the sole discretion of the Department’s Commissioner, the Department may change one or more of the dates in this rule or rule 2919 or both rules.
 - 1. Nothing in these rules shall require the Commissioner to change any date established in these rules.

Expedited Benefits

2922 **Expedited Benefits** (06/01/2024, 23-18)

- a. A household may request the Department to expeditiously issue seasonal fuel benefits when all of the following conditions are met:
1. The household has submitted a completed seasonal fuel assistance application, including all necessary documents to verify eligibility;
 2. The household is eligible for seasonal fuel benefits;
 3. The household has not received a fuel benefit during the heating season in which the application was received by the Department; and
 4. The Department or a crisis fuel worker has determined that a household has a home heating emergency need, including:
 - i. The household's primary heating fuel tank is at 25% or less of its full capacity;
 - ii. There is one week's supply or less of fuel for households whose primary heating sources include firewood, wood pellets, or coal; or
 - iii. The household has received a disconnect notice from a metered utility, and the utility is responsible for either:
 - A. Providing the household's primary fuel source; or
 - B. Operating a necessary component of the household's primary home heating equipment.

Change in Circumstances

2923 **Change in Circumstances** (06/01/2024, 23-18)

- a. Households must report all changes in circumstances that may affect eligibility or benefit amount within ten days of the date the change occurred.
 1. Subject to rule 2925 and subsection (d) of this rule, reported changes will not affect the household's benefit amount for a benefit that has already been issued.
 2. Reported changes will take effect when the Department next determines eligibility and benefit amounts for fuel assistance.
- b. The Department may issue an additional benefit during a heating season to a household that received a nominal benefit during the season if one of these changes occurs:
 1. The household begins paying a certified fuel supplier for primary heating fuel; or
 2. The cost of heating fuel becomes included in a household's rent payment for households that do not live in Section 8 housing or other public housing.
- c. If the Department issues an additional benefit pursuant to subsection (b) of this rule, the Department must deduct the nominal benefit amount received by the household during the heating season from the benefit amount that the household is otherwise eligible for in the same season.
- d. The Department may withhold benefits, and may require benefits to be refunded, under any combination of the following circumstances that apply to all adult members of the household:
 1. Death;
 2. Moved out of Vermont;
 3. Spend less than 150 nights in their living unit between November 1 and April 30; or
 4. Changed their living arrangement to one excluded under rule 2904.

Change of Fuel Supplier

2924 **Change of Fuel Supplier** (06/01/2024, 23-18)

- a. If a household changes its primary heating fuel supplier, the household must notify the Department within ten days of the change and provide the Department with:
 1. The name of the household's new primary heating fuel supplier and supplier's contact information;
 2. The account number provided by the new supplier associated with the household's primary residence; and
 3. Any other information required by the Department to facilitate the transfer of benefits from the previous fuel supplier to the new supplier.

- b. If a household reports a change of fuel supplier after the benefit has been issued, the fuel supplier that received the benefit must transfer the remaining benefit to the new fuel supplier as soon as possible, unless the new supplier is not certified by the Department under these rules.
 1. A fuel supplier must not transfer benefits to another supplier that is not certified by the Department.
 2. If a household's new fuel supplier is not certified, the original supplier must return the remaining benefit to the Department.

Recoupment

2925 **Recoupment** (06/01/2024, 23-18)

- a. The Department may recoup any overpayment of benefits, regardless of the reason for the overpayment.
- b. In the case of fraud or an intentional program violation, the household shall be disqualified from receiving any further fuel assistance benefits until the first of the following occurs:
 - 1. The Department recoups the entire overpayment amount; or
 - 2. One heating season has passed during which the household received no fuel assistance benefits.
- c. The Department may use any lawful means to recoup an overpayment, including any of the following or any combination of the following:
 - 1. The Department may require a household to repay the amount of the overpayment;
 - 2. The Department may require a household's fuel supplier to repay the amount of the overpayment on behalf of the household from any balance remaining on the household's account;
 - 3. The Department may withhold an equivalent amount of future benefits until the full amount of the overpayment is repaid; or
 - 4. The Department may disqualify the household from receiving benefits for a specified time period.
- d. The Department must request recoupment of the overpayment within 180 days of the end of the heating season in which the overpayment occurred, except in the case of fraud.
 - 1. When an overpayment is the result of fraud, the Department must request recoupment within 180 days of the Department's discovery of the fraud.

Notice and Appeal Rights

2926 **Notice and Appeal Rights** (06/01/2024, 23-18)

- a. An applicant or household that is aggrieved by any action or inaction of the Department may request a fair hearing with the Human Services Board.
- b. When issuing a decision or taking an action affecting an applicant or a household's benefits, the Department must provide written notice to the applicant or household of their right to appeal the decision or action to the Human Services Board.
 - 1. The notice shall inform applicants and households of how and when to request a fair hearing with the Board.
- c. An applicant or household that wants to appeal must submit a request for a fair hearing to the Human Services Board within 90 days of the Department's action or decision.
- d. When the Department has not acted on an application or request, the person who wants to appeal must submit a request for a fair hearing to the Human Services Board within 90 days after the date the person submitted the application or request to the Department.
- e. If a person communicates a wish for a hearing or appeal to the Department, the Department must promptly notify the Human Services Board of the person's request for a fair hearing.

Severability

2927 **Severability** (06/01/2024, 23-18)

- a. The provisions of these rules are severable.

- b. If any provision of these rules is invalid, or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provision or application.