

Bill as Introduced

HB 384 - AS INTRODUCED

2011 SESSION

11-0480
09/10

HOUSE BILL

384

AN ACT

prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.

SPONSORS: Rep. Kurk, Hills 7

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill prohibits the office of energy and planning from requiring social security numbers from applicants for any program administered by the office, except when required under federal law or regulation.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 New Section; Office of Energy and Planning; Requests for Social Security Numbers of Program
2 Applicants Prohibited. Amend RSA 4-C by inserting after section 5-a the following new section:
3 4-C:5-b Requests for Social Security Numbers of Program Applicants Prohibited. The office of
4 energy and planning shall not require social security numbers from applicants for any program
5 administered by the office, except when required under federal law or regulation.
6 2 Effective Date. This act shall take effect 60 days after its passage.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 384

BILL TITLE: prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.

DATE: 2/10/11

LOB ROOM: 306 **Time Public Hearing Called to Order:** 10:15 am

Time Adjourned: 10:35 am

(please circle if present)

Committee Members: Reps. McGuire, Hawkins, Sytek, Day, Gould, Pratt, Vita, Perkins, Winter, Bowers, Whitehead, Hansen, Proulx, P. Schmidt, Pilotte, Judy and Sullivan.

Bill Sponsors: Rep. Kurk, Hills 7

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Kurk introduced bill
Insignificant issue – Was suggested by federal agency to be done
Ability to get more information from people

Rep. Pilotte – No board/agency can request this

Rep. Kurk – Could be “voluntary” on licenses also

*Joanne Morin – Department of Energy Planning
Program runs out of HHS
Reduce fraudulent in NH

Rep. Sytek – Uncovered fraud?

Joanne Morin – Yes

Rep. Pratt – What additional information

Celeste Lovett – Actual income, copy work stubs and anything that may have their social security numbers

Rep. Day – Software exists in state office then goes out to other offices

Celeste Lovett – Check for fraud – free as possible
If this passes – need to document income/social security numbers on them

Rep. Pilotte – state intrastate

Celeste Morin – Don't think so

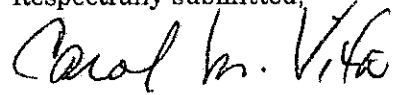
Claire Ebel – NHCLU

The department does not have to block out social security numbers unless requested, but is done at NHCLU

University, at one time, used to list grades with social security numbers on the door of class

Federal government does not require social security number

Respectfully submitted,

A handwritten signature in cursive script that reads "Carol M. Vita". The signature is written in black ink and is positioned above the typed name.

Carol M. Vita, Clerk

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

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Committee Members: Reps. McGuire, Hawkins, Sytek, Day, Gould, Pratt, Vita, Perkins, Winter, Bowers, P. Brown, Hansen, Proulx, P. Schmidt, Pilote, Jeudy and Sullivan.

WHITENACK

Bill Sponsors: Rep. Kurk, Hills 7

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

REP KURK - INTRO
O* JOANNE MORIN - DEPT OF ENERGY & PLANNING
CELESTE COVETT
CLAIRE EBEL - NHCLU

384

LIC. SUBS

KURK - INSIGNIFICANT ISSUE -
WAS SUGGESTED - BY FEDERAL AGENCY TO
BE DONE. A
ABILITY TO GET MORE INFO FROM PEOPLE

PILOTTE - NO BOARD / AGENCY CAN REQUEST THIS

KURK - COULD BE "VOLUNTARY" ON LICENSES ALSO

MORIN - PROGRAM RUNS OUT OF HHS

- Reduce fraudulent in NH

SYTEK UNCOVERED FRAUD?

MORIN - YES -

PILOTTE PRATT - WHAT ADDITIONAL INFO

LOVETT - ACTUAL INCOME, COPY WORK STUDS, ANYTHING THAT
MAY HAVE THEIR S.S #S

DAY - SOFTWARE EXISTS IN STATE OFFICE, THEN GOES OUT
TO OTHER OFFICES

LOVETT - CHECK FOR FRAUD - FREE AS POSSIBLE
IF THIS PASSES - NEED TO DOCUMENT INCOME
/ SS#S ON THEM

PILOTTE
MORIN
LOVETT - STATE INTRASTATE
- DON'T THINK SO

EBEL - THE DEPT DOES NOT HAVE TO BLOCK OUT SS#S
UNLESS REQUESTED, BUT IS DONE AT NHCLU

- UNIVERSITY AT ONE TIME, USED TO LIST GRADERS
W/SS#S ON THE DOOR OF CLASS.

- FEDERAL GOV'T DOES NOT REQUIRE SS#

Testimony

MORIN 384

U.S. Department of Health & Human Services

Administration for Children Families

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM assistance with heating and cooling costs

<p>Low Income Home Energy Assistance Information Memorandum</p>	<p>U.S. Department of Health and Human Services Administration for Children and Families Office of Community Services Division of State Assistance 370 L'Enfant Promenade, S.W. Washington, D.C. 20447</p> <p>http://www.acf.hhs.gov/programs/ocs/liheap</p>
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Transmittal No. LIHEAP-IM-2010-6

Date: May 5, 2010

- TO:** Low Income Home Energy Assistance Program (LIHEAP) Grantees and Other Interested Parties
- SUBJECT:** States are Strongly Encouraged to Exercise their Discretion to Require Social Security Numbers in Determining Eligibility for LIHEAP
- RELATED REFERENCES:** Executive Order 13520, *Reducing Improper Payments*, issued November 20, 2009; The Omnibus Budget Reconciliation Act of 1981 (Public Law (P.L.) 97-35), as amended; U.S. Code Title 42 ("The Public Health and Welfare"), Section 405 (42 USC 405)(c)(2)(C)(i); Section 7 of the Privacy Act of 1974 (The Privacy Act) (5 USC 552a note).
- PURPOSE:** To inform LIHEAP grantees about Social Security Act provisions that allow States to require Social Security Numbers (SSNs) from applicant households as a condition of LIHEAP eligibility. HHS strongly recommends that States implement and strengthen requirements for SSNs of LIHEAP applicants and household members to deter fraud and prevent payments to ineligible individuals.
- BACKGROUND:** HHS has conducted an analysis of the policies that apply to the LIHEAP program in response to Executive Order 13520 issued in November 2009 titled, *Reducing Improper Payments*. This executive order encourages Federal agencies to take steps to reduce improper payments by intensifying efforts to reduce payment error and ensure strong program integrity in the major programs administered by the Federal Government.
- The Privacy Act, as previously applied to the LIHEAP program, had been interpreted to prohibit denial of a LIHEAP benefit because of an individual's refusal to disclose his or her SSN, since disclosure is not required by Federal statute. See 5 U.S.C. § 552a note.
- After a review of statutory changes made subsequent to the enactment of the Privacy Act, as well as the accompanying legislative history, HHS has determined that Section 205(c)(2)(C)(i) of the Social Security Act, 42 U.S.C. § 405(c)(2)(C)(i), grants States the discretion to require that individuals disclose their SSNs for "the administration of any law, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction." HHS has further concluded that LIHEAP is a "general

public assistance" program administered by States, and as such, Section 205(c)(2)(C)(i) of the Social Security Act authorizes States to require SSNs as a condition of eligibility for use in verifying the identity of individual applicants and their household members. The Social Security Act at Section 205(c)(2)(C)(i) provides:

It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Commissioner of Social Security.

While HHS remains bound by the Privacy Act provisions and cannot compel States to require SSNs as a condition of eligibility for LIHEAP, we have concluded that States have discretionary authority to require SSNs in the administration of their State LIHEAP programs.

As such, HHS is issuing revised guidance on this issue to inform States of their authority to require SSNs from LIHEAP applicants and recipients and to encourage States to require SSNs in their State LIHEAP programs as a means of ensuring individual and household eligibility.

Content:

Specific Guidance to States

The Low Income Home Energy Assistance Program provides assistance to some 8.2 million low-income households in meeting their home heating and cooling needs. States may provide benefits to households with incomes that do not exceed 150 percent of the Federal poverty level or 60 percent (75 percent in fiscal years 2009 and 2010) of the State median income. States are encouraged to target benefits to particularly vulnerable households, including those with young children, elderly members, and individuals with disabilities. States may also give priority to households with high home energy costs, or need, in relation to income.

To ensure that program resources are effectively reaching the targeted low-income households, including vulnerable applicants with young children, the elderly, and individuals with disabilities, it is important that States establish effective preventive controls, detection and monitoring designed to deter and detect payments to ineligible households.

Social Security Numbers for Applicants and Household Members

To enhance program integrity in LIHEAP, HHS strongly encourages States to require that LIHEAP applicants provide SSNs in order to receive a LIHEAP benefit. This means that:

- States may require that any individual applying for LIHEAP disclose his/her SSN, as part of the application, to validate identity and as a condition for the receipt of benefits;
- States may require the SSNs of all household members reported in the LIHEAP application in order to qualify the household for any LIHEAP benefit; and
- States may deny assistance to individuals and households upon a refusal to provide SSNs.

HHS also strongly encourages States to establish and implement policies and procedures governing individual program application requirements to be used in requiring Social Security Numbers for recipients in LIHEAP, including the utility of information by local administering agencies that administer LIHEAP benefits. States are to ensure that adequate procedures are in place for the safeguarding of such information in the administration of the program.

Access to Systems to Verify Applicant Information

HHS encourages States to exercise diligence when qualifying LIHEAP applicants by accessing or establishing governmental and other benefits systems that may be used to ensure that payments are made on behalf of eligible households, including programs that are administered by State or local government agencies, and non-profit organizations operating on behalf of the State program.

States should explore using SSNs to access the following:

- The Social Security Administration's Enumeration Verification System to confirm identity of applicants and household members;
- State directories of new hires or similar systems to confirm income eligibility;
- Prisoner databases to ensure that applicants and individuals listed as household members are eligible recipients; and
- Other databases that may be used to confirm applicant and household eligibility, such as State vital records registries.

Under LIHEAP provisions, States have the flexibility to serve households that have at least one member who receives assistance under the Temporary Assistance to Needy Families (TANF) program, the Supplemental Nutritional Assistance Program (SNAP), Supplemental Security Income (SSI), and certain needs-tested Veteran's benefits. For households where LIHEAP eligibility is contingent upon this "categorical eligibility," States should establish procedures to ensure that such eligibility provides sufficient verification of an applicant's or household member's identity, income status, and other eligibility criteria that may be established by the State.

The ability of each State's LIHEAP program to access government and other benefits systems will be governed by Federal authority or laws of each State, and HHS encourages States to take advantage of their available authorities and resources to use SSNs as a means of accessing or establishing systems in the provision of funds to eligible households. HHS notes that States may use up to 10 percent of their LIHEAP block grant funds for administrative costs, and encourages the utilization of these administrative resources to support this critical program integrity effort to deter errors or receipt of LIHEAP benefits by ineligible households.

Program Integrity Measures

Beginning with States' FY 2011 application for LIHEAP funding, States are requested to submit, as a supplement to their State Plans, information that details their program integrity measures, including details regarding applicant and household verification for LIHEAP applicants, income verification, and other procedures that the State implements on program accountability. Additional information regarding the supplement will be issued separately.

Conclusion

HHS is committed to working with the States in our shared accountability in administering the Low Income Home Energy Assistance Program to ensure that these critical resources are provided appropriately to the households

that most need them. We look forward to working with you in partnership as we implement improved policies designed to identify and mitigate risks of erroneous benefits.

Please take special note that we plan to release an Action Transmittal providing additional detail on State Plan requirements (LIHEAP-AT-2010-6), which will help us assess current measures and prescribe improvements for your State's fraud prevention systems. We look forward to working in collaboration to strengthen the LIHEAP program across the board.

/s/ _____
Yolanda J. Butler, Ph.D.
Acting Director
Office of Community Services

MORLA

LIHEAP (New Hampshire Fuel Assistance Program)

The Low Income Home Energy Assistance Program (LIHEAP) is federally funded through the U.S. Department of Health and Human Services. The Office of Energy and Planning (OEP) is responsible for the statewide administration of LIHEAP, known as the Fuel Assistance Program (FAP) in New Hampshire. OEP contracts with the six local Community Action Agencies (CAAs) to provide FAP benefits to eligible households.

FAP provides income eligible households with assistance in paying their energy bills during the winter heating season. FAP prioritizes households where elderly, disabled persons and/or young children reside. Benefits are calculated taking into account household income, energy costs, number of degree-days within a region, and housing type. This targeting allows those households with the lowest incomes and highest energy costs to receive the highest benefits.

Program Year 2010-2011 (as of 2/4/11)

Applications Taken:	45,403
Applications Certified:	33,356
Average Obligated Benefit Amount:	\$699
New Hampshire Base Grant:	\$33,746,906
February Contingency Funds:	\$1,795,158
Total Funding Available for Benefits PY 2010-2011:	\$35,542,064

Program Year 2009-2010 (FINAL)

Applications Taken:	54,445
Applications Certified:	47,215
Average Obligated Benefit Amount:	\$925
New Hampshire Base Grant:	\$34,112,375
February Contingency Funds:	\$2,511,656
Total Funding Available for Benefits PY 2009-2010:	\$36,624,031

Program Year 2008-2009 (FINAL)

Applications Taken:	52,145
Applications Certified:	44,425
Average Obligated Benefit Amount:	\$929
New Hampshire Base Grant:	\$34,149,501
Contingency Funds (2008 funds released in September 2008 to be used in PY 2009):	\$3,192,599
October Contingency Funds:	\$13,624,352
Total Funding Available for Benefits PY 2008-2009:	\$50,966,452

**FY 2011
Grantee New Hampshire**

Updated Benefit Levels

2605 (b) (5)

Benefits are calculated taking into account household income, energy costs, number of degree-days within a region and housing type. This targeting allows those households with the lowest incomes (below 75% FPG) and highest energy costs to receive the highest benefits.

The income level and annual energy costs are combined through the use of the following double matrix:

	A	B	C	D	E	F
AA	1125	975	825	675	525	375
BB	900	780	660	540	420	300
CC	675	585	495	405	315	225
DD	450	390	330	270	210	150

The first part of the matrix (A through F) is based on household income, adjusted for family size. The household income levels are (A) 75%, (B) 100%, (C) 125%, (D) 150%, (E) 175% and (F) 200% FPG (50% SMI).

The second part of the matrix (AA through DD) is based on the household's annual home heating energy costs. The home heating cost levels are: (DD) \$100 - \$600, (CC) \$601 - \$900, (BB) \$901 - \$1,200, and (AA) \$1,201 and above.

A household at 75% of poverty and heating costs of \$1,201 and above receives the greatest benefit and a household at 200% of poverty and \$100 - 600 in annual home heating costs receives the smallest benefit.

For example a 1-person eligible household with 30 day income of \$500 falling under income level A (75% FPG) and with actual/adjusted annual energy usage of \$1,000, falling under level BB for annual heating costs will receive a basic benefit of \$900 using the benefit matrix.

There are 24 different benefit levels.

Benefit levels may be increased during the program year if funds are available.

MORIO 384

U.S. Department of Health & Human Services

Administration for Children & Families

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

Office of Community Services | LIHEAP Clearinghouse
assistance with heating and cooling

HHS Block Grant Regulations

Title 45 (Public Welfare and Human Services, General Administration),
Part 96 (Block Grants), revised as of October 1, 1996

The text of the U.S. Department of Health and Human Services (HHS) Block Grant Regulations (Title 45, Part 96 of the Code of Federal Regulations) is taken from the U.S. Government Printing Office via GPO Access//CITE: 45CFR96.

A listing of the sections to Subparts A-L and Appendices A-B of the regulations begins [HERE](#). Text links to the Subparts and Appendices begin [HERE](#).

LIHEAP regulations are found at [Subpart H](#). Subparts **A-F** are also relevant to LI

Text links to the Subparts and Appendices

[Subpart A--Introduction](#)

[Subpart B--General Procedures](#)

[Subpart C--Financial Management](#)

[Subpart D--Direct Funding of Indian Tribes](#)

[Subpart E--Enforcement](#)

[Subpart F--Hearing Procedure](#)

[Subpart G--Social Services Block Grant](#)

[Subpart H--Low-Income Home Energy Assistance Program](#)

[Subpart I--Community Services Block Grants](#)

[Subpart J--Primary Care Block Grants](#)

[Subpart K--Transition Provisions](#)

[Subpart L--Substance Abuse Prevention and Treatment Program](#)

[Appendix A to Part 96--Uniform Definitions of Services](#)

[Appendix B to Part 96--SSBG Reporting Form and Instructions](#)

Sec. 96.30 Fiscal and administrative requirements.

Sec. 96.31 Audits.

Sec. 96.32 Financial settlement.

The State must repay to the Department amounts found after audit

resolution to have been expended improperly. In the event that repayment

is not made voluntarily, the Department will undertake recovery.

[52 FR 37966, Oct. 13, 1987]

Sec. 96.33 Referral of cases to the Inspector General.

State or tribal officials who have information indicating the

commission or potential commission of fraud or other offenses against

the United States involving block grant funds should promptly provide

the information to the appropriate Regional Office of Investigations of

the Department's Office of the Inspector General.

[52 FR 37966, Oct. 13, 1987]

MORIN 384

United States Government Accountability Office

GAO

Report to Congressional Requesters

June 2010

LOW-INCOME HOME
ENERGY
ASSISTANCE
PROGRAM

Greater Fraud
Prevention Controls
Are Needed



GAO

Accountability * Integrity * Reliability



Highlights of GAO-10-621, a report to congressional requesters

Why GAO Did This Study

Federally funded at about \$5 billion a year, the Low-Income Home Energy Assistance Program (LIHEAP) provides financial assistance to low-income households for heating and cooling costs. The Department of Health and Human Services (HHS) awards LIHEAP funds based on low-income populations and other factors. Grantees—states, the District of Columbia, territories, and Indian tribes and tribal organizations—then provide energy assistance payments to low-income households.

GAO was asked to audit (1) the risk of fraud and abuse in LIHEAP in selected states; (2) case studies of fraudulent, improper, and abusive LIHEAP activity; and (3) key weaknesses in the design of LIHEAP's internal controls framework. To meet these objectives, GAO analyzed LIHEAP data from seven states for fraud indicators, interviewed federal and state officials, performed investigations, and conducted proactive testing in two states using a bogus company, individuals, addresses, and documents. The seven states were primarily selected based on size of LIHEAP grant and availability of centralized database.

What GAO Recommends

GAO makes six recommendations to HHS to issue guidance to states to better prevent fraud in LIHEAP. HHS agreed with the six recommendations.

View GAO-10-621 or key components. For more information, contact Greg Kutz at (202) 512-6722 or kutzg@gao.gov.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Greater Fraud Prevention Controls Are Needed

What GAO Found

LIHEAP is at risk of fraud and improper payments in all seven of our selected states. About 9 percent of households receiving benefits—totaling \$116 million—in the selected states contained invalid identity information, such as Social Security numbers, names, or dates of birth. Although some of these cases are likely due to simple errors such as typos or incomplete data, thousands of other cases show strong indications of fraud and improper benefits. For example, the identities of over 11,000 deceased individuals were used as applicants or household members for LIHEAP benefits. Hundreds of individuals were used as applicants or household members even though they were incarcerated in state prisons, making them ineligible. Finally, we identified over a thousand federal employees whose federal salary exceeded the maximum income threshold when they applied. We nonrepresentatively selected and investigated 20 cases that either validated the potential fraudulent activity noted above or illustrated other improper activities.

Examples of Fraudulent or Improper Activity in LIHEAP

Nature of activity	State	Case details
Deceased individuals	IL	Illinois provided \$540 in energy assistance to an applicant who fraudulently used the identities of two deceased family members to qualify for LIHEAP.
Federal employee salary over maximum income threshold	IL	Illinois provided \$840 in energy assistance to a U.S. Postal Service employee who fraudulently reported zero income to qualify for LIHEAP. Despite earning about \$80,000 per year, the employee stated that she saw "long lines" of individuals applying for LIHEAP benefits and wanted the "free money."
Residential facilities	NJ	New Jersey provided \$3,200 in energy assistance to a nursing home facility whose director claimed to represent eight patients residing in the facility. These patients had their nursing home care paid by Medicaid.
GAO's proactive testing	WV and MD	Posing as low-income residents, landlords, and an energy company, GAO used bogus addresses and fabricated energy bills, pay stubs, and other documents to apply for energy assistance. All fraudulent claims were processed and the energy assistance payments were issued to our bogus landlords and company.

Source: GAO analysis of state, public, and other records.

Although states are primarily responsible for preventing fraud, LIHEAP's internal controls framework has several key weaknesses. HHS has not provided specific guidance to states, instead issuing only broad regulations for states to establish appropriate systems and procedures to prevent fraud. The selected states do not have an effective design for a comprehensive fraud prevention framework. In fact, the states lack key efforts in all three crucial elements of a well-designed fraud prevention system: preventive controls, detection and monitoring, and investigations and prosecutions. Specifically, states lack essential preventive controls by not verifying identities or income. Some states automatically enroll certain individuals based on their eligibility for other programs. Although efficient in reaching similarly targeted recipients, this practice is dependent on the accuracy of the initiating program's eligibility determination. Finally, several state officials stated that they generally did not pursue investigations and prosecutions. The reason is that the benefit amounts are relatively small.

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Abbreviations

HHS	Department of Health and Human Services
LIHEAP	Low-Income Home Energy Assistance Program
SNAP	Supplemental Nutrition Assistance Program
SSA	Social Security Administration
SSI	Supplemental Security Income
TANF	Temporary Assistance for Needy Families

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United States Government Accountability Office
Washington, DC 20548

June 18, 2010

The Honorable Joe Barton
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Michael Burgess
Ranking Member
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

The Honorable Greg Walden
House of Representatives

In fiscal year 2009, Congress appropriated about \$5 billion for the Low-Income Home Energy Assistance Program (LIHEAP). This program provides energy assistance to about 8.3 million low-income households through payments to household members, home energy companies, or landlords to help cover home heating and cooling costs.¹ To be eligible, households must fall under income thresholds, which typically rise with the number of household members, set by states and the federal government.

Managed by the Department of Health and Human Services (HHS), LIHEAP is a federally funded block grant program in which each state is funded according to a formula based on its weather and low-income population.² Because block grant programs generally give states a great deal of flexibility in administering their programs, states must have strong internal controls to prevent fraud and abuse. However, a 2007 investigation by Pennsylvania's state auditor found weak internal

¹To be eligible for LIHEAP, individuals must meet the LIHEAP statute's definition of an eligible household and must be responsible for energy costs either directly or through their rent. LIHEAP also provides weatherization assistance, which states can provide up to 15 percent of its LIHEAP funds. Because many of the states combine LIHEAP's weatherization with the Department of Energy's weatherization program, we did not investigate this component of LIHEAP for this review.

²LIHEAP block grants are also provided to the District of Columbia, U.S. territories, Indian tribes, and tribal organizations.

controls—inadequate policies, procedures, supervision, and oversight—in the state's program, exposing the program to fraud. For example, 429 applicants received more than \$162,000 in LIHEAP benefits using the Social Security numbers of deceased people.

Because of the magnitude of fraud that was found in Pennsylvania's LIHEAP, you asked us to determine whether fraud and abuse exist in other state programs. Specifically, this report discusses (1) the risk of fraud and abuse in LIHEAP in selected states; (2) case studies of fraudulent, improper, and abusive LIHEAP activity; and (3) key weaknesses in the design of LIHEAP's internal controls framework.

To identify the risk of fraud and abuse in LIHEAP, we obtained and analyzed benefit files for the latest year available for seven selected states: Illinois, Maryland, Michigan, New Jersey, New York, Ohio, and Virginia.³ These states were selected primarily based on the magnitude of total LIHEAP funding and the availability of a centralized database of applicants and benefits. These states covered about one third of all LIHEAP funding in fiscal year 2009. Our criteria for identifying the risk of fraud focused on LIHEAP applications that were made using invalid identity information, such as invalid Social Security numbers, or the identities of individuals who were deceased or incarcerated. We compared LIHEAP data to data from the Social Security Administration (SSA) and state prisoner records. We also used federal salary data from the U.S. Department of Treasury, the U.S. Postal Service, and the Defense Finance and Accounting Service⁴ to determine whether civilian federal employees receiving LIHEAP benefits earned incomes above program thresholds. Our findings from our analysis only apply to these seven states and cannot be projected to the states not covered in our review.

For our case studies, we identified 13 cases that represent and validate the types of fraudulent and improper activity we found in our analysis above. We identified an additional 7 cases from our analysis of duplicate LIHEAP

³The files cover July 2008 through June 2009 for Illinois, Maryland, Michigan, New Jersey, Ohio, and Virginia, and October 2007 through September 2008 for New York.

⁴The Department of Treasury is the central disbursing agency for most federal agency payroll centers. For example, federal salary payments that are processed by the Department of Agriculture's National Finance Center are paid through the Department of Treasury. The U.S. Postal Service processes payments for postal employees. DFAS processes payments for Department of Defense employees and employees of certain other federal agencies.

benefits and a comparison of LIHEAP data with residency data regarding Medicaid long-term care facilities.⁶ In addition, we conducted proactive testing of LIHEAP controls in Maryland and West Virginia. We selected these two states to conduct our proactive testing because of their proximity to Washington, D.C. We applied for benefits using bogus addresses and fabricated energy bills and other supporting documents, and created a nonexistent energy provider and landlords to receive the benefits on behalf of our fictitious applicants. To apply for benefits, we obtained publicly available data and used publicly available hardware, software, and materials to counterfeit documents. To determine whether there are weaknesses in the design of key aspects of LIHEAP's internal controls framework, we interviewed LIHEAP officials from the selected states and HHS on the extent to which the program had controls contained in GAO's fraud prevention model. We did not systematically test the effectiveness of LIHEAP's controls (e.g., we did not test the implementation of those controls). A more detailed description of our scope and methodology is provided in appendix I.

We conducted this forensic audit⁶ from June 2009 to June 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain, sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted our related investigative work in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

Title XXVI of the Omnibus Budget Reconciliation Act of 1981⁷ established LIHEAP to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, in meeting their immediate home energy needs. States, territories, Indian tribes, and tribal organizations that wish to assist low-income

⁶ The cases were chosen using a nonrepresentative selection approach based on type of fraud and improper benefit, location of the application, availability of documentation, and other criteria that provided indications of fraud and abuse.

⁶ Forensic audit is the application of methods for tracking and collecting evidence for investigation and prosecution of criminal acts, such as fraud.

⁷ Pub. Law No. 97-35 (Aug. 13, 1981).

households in meeting the costs of home energy may apply for a LIHEAP block grant. These grantees operate their LIHEAP programs by paying qualified households or energy service providers for a range of covered home heating and cooling services. LIHEAP benefits are provided to eligible beneficiaries up to the maximum eligible payment for that beneficiary as determined by the grantee. Grant funds are distributed in this manner until the annual grant has been entirely expended or the program year has ended. Although LIHEAP is 100 percent federally funded with no required state match,⁸ states and other entities may contribute supplemental funds.

While the federal government establishes overall guidelines, each grantee operates its own program.⁹ For example, federal law provides that an eligible household's income must not exceed the greater of 150 percent of the poverty level or 60 percent of the state median income (75 percent in fiscal years 2009 and 2010). Grantees may not set their maximum income threshold below 110 percent of the poverty level, but they may give priority to those households with the highest home energy costs or needs in relation to income. Under the law, LIHEAP grantees have the flexibility of serving households having at least one member who also receives assistance under any of the following federal programs: Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP), and certain needs-tested Veteran Benefits. LIHEAP grantees may also set additional LIHEAP eligibility criteria, such as passing an assets test; living in nonsubsidized housing; having a household member who is elderly, disabled, or a young child; or having received a utility disconnection notice.

⁸ Grantees can use up to 10 percent of the block grant for administrative costs of the program.

⁹ Each state has flexibility in the acceptance of application and approval of eligibility. For certain states, the application is processed and approved by nonprofits or local governments. In other states, the application is processed and approved by state employees.

LIHEAP Is at Risk for Fraud and Improper Benefits in Selected States

Our analysis of LIHEAP data revealed that the program is at risk of fraud and providing improper benefits in all seven of our selected states. About 260,000 applications—9 percent of households receiving benefits in the selected states—contained invalid identity information, such as Social Security numbers, names, or dates of birth.¹⁰ Many applications may have inaccuracies due to simple errors such as typos or incomplete sections, making it impossible to determine whether these cases involve fraud. For example, about a third of the applications had Social Security numbers that were blank or obviously invalid (e.g., all zeros). Nonetheless, these applications pose a higher risk of fraud because there is no complete electronic record of beneficiaries' identities. These benefits totaled some \$116 million for the year we reviewed. Our previous work, such as our audit of the Federal Emergency Management Agency's management of the Individuals and Households Program for hurricanes Katrina and Rita, found that limited or nonexistent use of a third-party validation process left assistance programs vulnerable to substantial fraud.¹¹ As we will discuss later, LIHEAP generally does not have this third-party validation process for the seven selected states that we reviewed.

As described in the bullets below, thousands of cases show strong indications of fraud and improper benefits. But because of the invalid identity information noted above—a lack of a valid Social Security number makes it impossible to fully investigate such cases—these numbers are understated.

- Deceased individuals. The identities of over 11,000 deceased individuals were used as applicants or household members for LIHEAP benefits. Our analysis matching LIHEAP data to the SSA's death master file found these individuals were deceased before the LIHEAP application date. Benefits

¹⁰ Approximately 299,000 individuals (LIHEAP applicants and household members) could not be validated by SSA for the 260,000 applications. Certain applications had more than 1 individual whose identity could not be validated by the Social Security Administration (SSA). We used SSA's Enumeration Verification System (EVS) to determine the validity of the application information contained in the LIHEAP databases. EVS provides Social Security number validations to companies and agencies, including states' benefits-paying agencies.

¹¹ GAO, *Hurricanes Katrina and Rita Disaster Relief: Prevention Is the Key to Minimizing Fraud, Waste, and Abuse in Recovery Efforts*, GAO-07-418T (Washington, D.C.: Jan. 29, 2007) and GAO, *Hurricanes Katrina and Rita Disaster Relief: Improper and Potentially Fraudulent Individual Assistance Payments Estimated to Be Between \$600 Million and \$1.4 Billion*, GAO-06-844T (Washington, D.C.: June 14, 2006).

involved with these applications totaled about \$3.9 million for the year we reviewed.

- Incarcerated individuals. For the four states that provided reliable incarceration data, we found 725 instances where the identities of individuals incarcerated in state prisons were used as applicants or household members. These identities were associated with about \$370,000 of LIHEAP benefits even though these individuals were in prison at the time of the application and thus ineligible for benefits.
- Federal employees exceeding income thresholds. Matching LIHEAP data with federal civilian payroll records, we identified about 1,100 federal employees whose federal salary exceeded the maximum income threshold at the time of their application. The benefit payments associated with those applications totaled \$671,000.

Because LIHEAP is a block grant program, the potential fraudulent and improper activities associated with these thousands of cases have an adverse effect on the program. Specifically, these fraudulent and improper activities will either reduce the amount of energy assistance provided to recipients or prevent legitimate recipients from receiving the energy assistance because the funds have been used.

Cases of Fraudulent or Improper Activity Expose Problems in LIHEAP

We identified and further investigated 20 cases that demonstrate how fraudulent or improper activity was perpetrated. Thirteen cases concern applications with invalid identity information, deceased individuals, incarcerated individuals, or federal employees receiving LIHEAP benefits. Seven cases are examples of other types of improper and potentially fraudulent activity, including individuals in residential facilities being used to improperly receive benefits and households receiving duplicate LIHEAP benefits. We are referring all 20 cases to the HHS Office of Inspector General (OIG) for further investigation. See table 1 for case details.

Table 1: Cases of Fraudulent and/or Improper LIHEAP Activity in Selected States

Case	Location	Nature of case	Case details
1	Cleveland, OH area	Deceased	<ul style="list-style-type: none"> • Ohio provided \$400 in benefits to an applicant using the identity of a deceased individual. • The applicant did not apply in person but instead mailed the application. The application file did not show that the applicant's identity was validated. • The applicant obviously doctored an SSA benefit letter using the identity of the deceased individual. Specifically, the font sizes on the date and amount were significantly different from the rest of the letter. • A death certificate showed that the name used in the application belonged to an individual who had died 4 years before the application was made.

Case	Location	Nature of case	Case details
2	Southwest NJ	Deceased	<ul style="list-style-type: none"> New Jersey provided \$500 in benefits to an applicant using the identity of a deceased individual. The applicant was in a public assistance program and thus the LIHEAP benefits were automatically approved. A death certificate showed that the name used in the application belonged to an individual who had died before benefits were approved.
3	Chicago, IL area	Deceased	<ul style="list-style-type: none"> Illinois provided \$540 in benefits to an applicant using the identities of two deceased individuals. The applicant's income would have exceeded the maximum income threshold without the additional household members. The applicant stated that she had been denied the previous 3 years for not having enough household members with her income. She stated that she added her dead mother and brother when she remembered she had their Social Security cards and numbers. Death certificates confirm that the dates of death were more than 4 years before the application date.
4	Cleveland OH area	Incarcerated	<ul style="list-style-type: none"> Ohio provided \$400 in benefits to an applicant using the identity of an incarcerated individual. The applicant did not apply in person but instead mailed the application. The application file did not show that the applicant's identity was validated. Prison records show that the incarcerated individual had been in prison for 2 years and was still incarcerated.
5	South NJ	Residential facilities	<ul style="list-style-type: none"> New Jersey provided \$3,200 in benefits to a nursing home facility whose director claimed to represent eight patients residing in a nursing home. These patients had their nursing home care paid by Medicaid. The nursing home director submitted the LIHEAP applications, stating that these funds were to offset heating and cooling costs for the eight patients. New Jersey LIHEAP officials stated that individuals living in a nursing home are not eligible to receive LIHEAP benefits.
6	Northwestern MD	Residential facilities	<ul style="list-style-type: none"> Maryland provided \$3,600 in benefits. The applicant was residing in a nursing home at the time of the application according to Medicaid records. The address on the application for the benefits was not the nursing home, but instead a house owned by another individual. That same individual signed the LIHEAP application on behalf of the nursing home resident. Maryland LIHEAP officials stated that individuals living in a nursing home are not eligible to receive LIHEAP benefits.
7	Cleveland, OH	Federal employee	<ul style="list-style-type: none"> Ohio provided \$300 in benefits to a Department of Veterans Affairs (VA) employee whose \$58,000 salary exceeded the maximum income threshold of \$18,200. The VA employee did not state in the application that she worked for the federal government. The applicant provided documentation that purported to show about \$500 in monthly income.
8	Cleveland, OH	Federal employee	<ul style="list-style-type: none"> Ohio provided \$300 in benefits to a VA employee whose \$38,000 salary exceeded the maximum income threshold of \$18,200. The VA employee did not state in the application that he worked for the federal government. The applicant provided documentation that purported to show about \$750 in monthly income.

Case	Location	Nature of case	Case details
9	Trenton, NJ area	Federal employee	<ul style="list-style-type: none"> New Jersey provided \$1,500 in benefits to a U.S. Postal Service employee whose \$54,000 salary exceeded the maximum income threshold of \$31,500. The employee claimed that she earned half her actual monthly salary. To substantiate the income, she included a pay stub that covered 2 weeks but claimed it covered a month.
10	Chicago, IL	Federal employee	<ul style="list-style-type: none"> Illinois provided \$700 in benefits to the wife of a U.S. Postal Service employee whose \$84,000 salary exceeded the maximum income threshold of \$37,200. The applicant signed a waiver stating that the employee had zero income. The employee claimed he did not know that his wife applied for and received LIHEAP benefits. The LIHEAP application only required signature of the applicant and not household members.
11	Chicago, IL	Federal employee	<ul style="list-style-type: none"> Illinois provided \$840 in benefits to a U.S. Postal Service employee whose \$80,000 salary exceeded the maximum income threshold of \$31,800. The applicant signed a waiver stating that the employee had zero income. The employee admitted to our investigators that she was not entitled to benefits. She stated that "Times are tough and I needed the money." She saw "long lines" of applicants and wanted the "free money."
12	Detroit, MI area	Federal employee	<ul style="list-style-type: none"> Michigan provided \$3,900 in benefits to a U.S. Postal Service employee whose \$50,000 salary exceeded the maximum income threshold of \$43,560. The employee told our investigators that she was not employed when she applied. U.S. Postal Service salary records demonstrated and the U.S. Postal Service OIG confirmed that she was employed at that time.
13	Chicago, IL	Invalid identity information	<ul style="list-style-type: none"> Illinois provided \$1,000 in benefits to a household whose application contained invalid identity information. The identities for 7 of the 14 household members claimed on the application could not be validated with SSA's Enumeration Verification System. Six of these 7 identities had incorrect birthdates so that the household members would appear to be minor children and thus would not have to report income. The applicant's income would have exceeded the maximum income threshold without the additional household members who had invalid identity information. The applicant admitted to our investigators that she forged her husband's signature on the application. She claimed that the invalid identity information was the state's fault even though she signed the application with the invalid information. She also claimed that all 14 household members lived at the address at the time of the application. However, her husband stated in a separate interview that 4 of the listed household members did not live there at the time of the application.
14	MI	Duplicate LIHEAP benefits	<ul style="list-style-type: none"> Michigan provided \$2,200 in benefits, above the \$1,100 maximum benefit limit. The household automatically received duplicate benefits for being enrolled in Medicaid and SNAP.
15	MD	Duplicate LIHEAP benefits	<ul style="list-style-type: none"> Maryland provided \$1,400 in benefits to a household that submitted two separate applications for the same time period for the same address. One application was signed by the grandmother and included her daughter and her grandchildren as household members. The other application was signed by the daughter and only included her children.

Case	Location	Nature of case	Case details
16	Richmond, VA area	Duplicate LIHEAP benefits	<ul style="list-style-type: none"> Virginia provided three payments totaling \$2,400 to three separate applicants at the same address. One of the LIHEAP applications was automatically approved because the applicant was enrolled in SNAP. Another application was submitted by a son who listed his mother as a household member. The third application was submitted by his mother with no other household members listed on the application. All three applications had the same last name.
17	Albany, NY	Incarcerated	<ul style="list-style-type: none"> New York provided \$700 in benefits to a household that claimed two incarcerated family members as household members. The applicant, a VA purchasing agent, needed the additional two household members to qualify for benefits based on her salary of about \$50,000.
18	MD & VA	Duplicate benefits	<ul style="list-style-type: none"> Maryland and Virginia provided \$1,100 in benefits to one applicant claiming two separate households at once. The residences are 280 miles apart. The signatures on the two applications were distinctly different. The applicant was convicted of fraud in 1999 and 2003.
19	VA	Incarcerated	<ul style="list-style-type: none"> Virginia provided \$430 in benefits to an individual using the identity of an incarcerated person. Prison records indicate that the individual was imprisoned during the time of the LIHEAP application date and had been in jail for more than 15 years. The LIHEAP application file did not contain any proof of identity (i.e., driver's license or social security number).
20	VA	Residential facility	<ul style="list-style-type: none"> Virginia provided \$570 in benefits to an applicant claiming a household member who, according to Medicaid records, resided in a long-term facility.

Source: States' LIHEAP, states' Medicaid Programs, states' Incarceration records, SSA, U.S. Postal Service, and Department of Veterans Affairs.

Further, we identified several instances of LIHEAP program funds being disbursed to individuals who may have met the income threshold but had significant assets. Specifically, we identified several beneficiaries living in million-plus dollar houses in Potomac, Maryland, and the Chicago suburbs. Because neither state considers the amount of a household's assets in determining whether to provide energy assistance, owning high-dollar assets cannot be considered fraud or improper activity of the program in those states. Without access to bank and tax records, our investigations could not determine whether these individuals met the LIHEAP maximum income threshold. However, in one case, a beneficiary conducted her counseling service from her residence, according to an insurance company Web site. She lives in a \$2 million home in a wealthy Chicago suburb and owns a late 2000s Mercedes. She also won a multimillion dollar settlement in the mid 2000s that is currently under appeal. The applicant refused to speak with our investigators or the local police about her LIHEAP application.

Finally, our proactive testing further demonstrated LIHEAP's vulnerability to fraud. Posing as low-income residents, we used bogus addresses and fabricated energy bills, pay stubs, and other supporting documents to apply for energy assistance in West Virginia and Maryland. For three of the five cases, the LIHEAP payments were made to our fictitious energy company to pay the low-income resident's energy bills. Our investigators created this energy-related company to receive the energy assistance payments. For the other two cases, the low-income residents "lived" in a rental house where the landlord paid the energy assistance benefits as a part of the rent. For these two cases, the investigators created fictitious landlords who received the energy assistance payments. All five claims were processed and the energy assistance payments issued and mailed to our fake company and landlords (see fig. 1).

Figure 1: LIHEAP Checks Provided to GAO Based on Bogus Applications

CTL#

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STATE OF WEST VIRGINIA
STATE WARRANT #

03/01/2010

PAYEE

*****\$337.00**

FY-2010

WEST VIRGINIA TREASURY STATE TREASURER
John D. Perdue

STATE AUDITOR
Glen B. Garner III

State of Maryland - Treasurer's Office

Control ID 4167 Annapolis, Md. 2/22/2010

Pay The Sum of *****680 DOLLARS 00 CENTS *****480.00

TO THE ORDER OF

M&T Bank

Nancy K. Kopp Treasurer Peter Franchot Comptroller

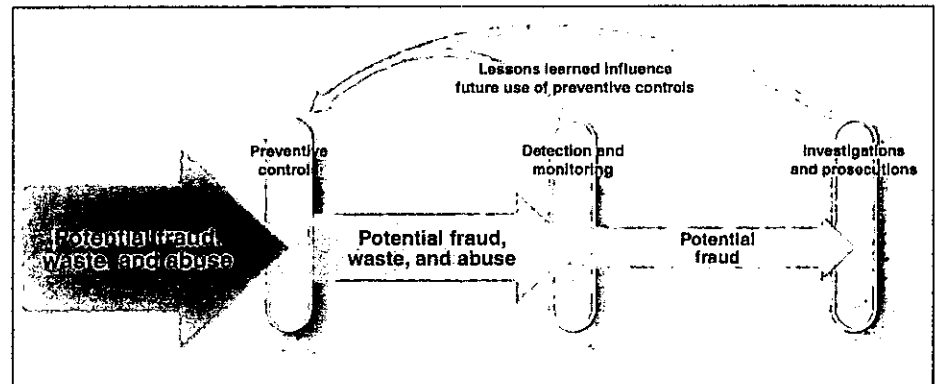
Source: GAO.

The Federal Government and Selected States Lack an Effective Fraud Prevention Framework for LIHEAP

LIHEAP's internal controls framework has several key weaknesses at both the federal and state levels, as shown by GAO's fraud prevention model. At the federal level, HHS has not provided specific guidance to states and other grantees for preventing fraud and abuse of LIHEAP. While grantees are primarily responsible for preventing fraud in LIHEAP, the LIHEAP statute establishes a number of oversight and enforcement responsibilities for HHS to ensure that grantees are properly applying the funds, including requiring the issuance of regulations to prevent waste, fraud, and abuse in LIHEAP.¹² HHS has issued regulations that require grantees to establish appropriate systems and procedures to prevent, detect, and correct waste, fraud, and abuse by clients, vendors, and administering agencies, but it has not provided any additional detailed guidance to the states or other grantees on how to develop an effective fraud prevention system.¹³

In addition, the selected states do not have an effective design for a comprehensive fraud prevention framework. In fact, the states are lacking key efforts in all three crucial elements of a well-designed fraud prevention system: preventive controls, detection and monitoring, and investigations and prosecutions.

Figure 2: GAO's Fraud Prevention Model



Source: GAO.

¹²42 U.S.C. § 8624(b).

¹³45 C.F.R. § 96.84(c).

Preventive controls. States lack essential preventive controls, which are the most efficient and effective means to minimize fraud, waste, and abuse. Social Security numbers are a key element in the identification of a person's identity. Our analysis of 1 year of LIHEAP data found that for the selected states about 100,000 individuals' records contained a blank or obviously invalid Social Security number. HHS's prior interpretation of the Privacy Act prohibited states from requiring recipients to provide Social Security numbers in applying for LIHEAP benefits.¹⁴ However, 42 U.S.C. § 405 allows states to require that individuals disclose their Social Security numbers for "the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction." We believe that LIHEAP falls within the scope of this statute. In response to our draft report, HHS revised its interpretation, and strongly suggested that states require Social Security numbers. Under HHS' prior interpretation, the states were not be able to validate individuals' identities and, without this basic control, we believe it cannot have an effective fraud prevention program.

The selected states do not have other measures that we believe are key to preventing fraud, as we discovered from our discussions with state officials (table 2). We believe that these are key preventive control measures that states should integrate in their application processes as long as the costs of these controls do not outweigh the benefits.

¹⁴According to HHS, Section 7 of the Privacy Act of 1974 (5 U.S.C. §552a note) prohibits states from denying an individual a benefit because of the individual's refusal to disclose his or her social security number (SSN), unless disclosure is required by federal statute. HHS states that because there is nothing in the LIHEAP statute requiring individuals to provide their SSN, states should not require that LIHEAP applicants provide it. A state may request that an applicant voluntarily provide an SSN, but if they do this, they must inform the person whether the disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

Table 2: LIHEAP Fraud Prevention Control Measures: Selected States

Control measure	IL	MD	MI	NJ	NY	OH	VA
Validate applicant and household member information with SSA			X		X		
Check death record files							
Check for incarcerated individuals							
Verify reported income using outside source (e.g., New Hire Database)				X			
Check for long-term care patients			X				
Check data to prevent applicants and household members from receiving duplicate benefits	X	X	X	X	X	X	X

Source: Selected state officials.

Note: X denotes fraud prevention control measures to screen all or certain segments of LIHEAP applications according to statements made by state officials. We did not test whether the states actually had these measures in place or whether these measures were effective.

- Officials from five of the states said they did not validate applicant and household member information with SSA, which can verify a person's Social Security number, name, and date of birth against its records.
- Officials from all seven states stated that they did not compare applicant and household information against death records prior to payment. Officials from these states stated that they did not check death records from SSA or their state's Vital Statistics Office to determine if applicants or household members were deceased.
- Officials from all seven states said that they did not check LIHEAP applicants and household members against a listing of incarcerated individuals in state prisons.
- Six states generally did not verify self-reported income of LIHEAP applicants and household members with employment and wage databases (e.g., State Directory of New Hires). After our inquiries, officials from only one state said that they recently had begun to perform such a comparison, and only for those individuals who claimed zero income.
- Six states did not verify household member residency through checking long-term care facility records, according to officials. To be eligible for LIHEAP, an individual must be a member of a household that is eligible for the benefits and responsible for energy costs either directly or through their rent. As such, an individual residing over an extended period of time in a long-term care facility (e.g., nursing home) that is paid by Medicaid does not meet this requirement.
- System edit checks can be added to a grantee's electronic database of LIHEAP beneficiaries to check for repeated use of a name, Social Security number, utility account number, or other identifying fields. Officials from all seven states said that they have some form of edit checks to prevent

duplicate benefits. However, the edit checks performed varied by the state and are not comprehensive in certain states.

Detection and monitoring. To be efficient in reaching similarly targeted recipients, certain states automatically enroll LIHEAP recipients based on the applicant or household member receiving benefits for certain federal programs (e.g., TANF or SNAP). Thus, LIHEAP relies on the preventive controls for these programs to ensure that only eligible applicants and/or household members are receiving the benefits. As a result, the LIHEAP's preventive controls will only be as effective as the preventive controls for the federal program (e.g., TANF or SNAP) from which the recipient originally received benefits. Monitoring and detection within a fraud prevention program involves data mining for fraudulent and suspicious applicants and evaluating vendors and employees to provide reasonable assurance that they continue to meet program requirements and follow program protocols. The selected states generally do not match their beneficiary files to third-party databases, such as State Directory of New Hires, to determine continued eligibility, nor do they ensure that applicants are not acting as their own vendor.

Investigation and prosecution. Several state officials stated that they generally did not pursue investigations and prosecutions involving LIHEAP. The aggressive investigation and prosecution of individuals who defraud the government is the final component of an effective fraud prevention model. Schemes identified through investigations and prosecution can also be used to improve the fraud prevention program. However, pursuing recipients who commit fraud can be costly and time-consuming. The amounts of energy assistance benefits to individuals are relatively small, which may deter prosecution of the cases by federal or state prosecutors. Because of this, it is important to have strong controls to prevent the occurrence of fraud.

Conclusions

Without an adequate fraud prevention framework, LIHEAP in the seven states is vulnerable to individuals willing to commit fraudulent and improper activities to receive energy assistance benefits. Given that the states are responsible for administering LIHEAP and establishing the proper controls, each state needs an effective fraud prevention framework to provide reasonable assurance of the integrity of its program. Without these proper controls, energy assistance benefits will continue to be provided to ineligible individuals, which limits the help that can be provided to those individuals who meet program requirements. However,

the responsibility for actively partnering with and providing such guidance to the states rests with HHS.

Recommendations for Executive Action

To establish an effective fraud prevention system for the LIHEAP program in the seven states, the Secretary of HHS should evaluate our findings and consider issuing guidance to the states addressing the following six recommendations:

- Require applicants and household members to provide Social Security numbers for themselves and all members of the household in order to receive energy assistance benefits.
- Evaluate the feasibility (including consideration of any costs and operational and system modifications) of validating applicant and household member identity information with SSA.
- Develop prepayment edit checks to prevent individuals from receiving duplicate benefits.
- Evaluate the feasibility of using SSA's or states' vital record death data to prevent individuals using deceased identities from receiving benefits.
- Evaluate the feasibility of preventing incarcerated individuals from improperly receiving benefits, for example, by verifying Social Security numbers with state's prisoner information.
- Evaluate the feasibility of using third-party sources (e.g., State Directory of New Hires) at a minimum on a random or risk basis, to provide assurance that individuals do not exceed maximum income thresholds.

Agency Comments and Our Evaluation

HHS and SSA provided written responses to our request for comments. Seven of the eight states covered in our report also provided written responses. Letters with comments from HHS, SSA, Illinois, Michigan, New Jersey, New York, Ohio, Virginia, and West Virginia are reprinted and discussed in further detail, when applicable, in the appendices. Maryland stated that it did not have any comments on the report. HHS and certain states also provided technical comments, which we incorporated as appropriate. Responses from HHS, SSA, and the states are reprinted in appendixes II-X.

HHS agreed with all our recommendations, stating that it had begun to take action on some of them since reviewing a draft of this report. While the agency stated that the Privacy Act prevents it from forcing states to require Social Security numbers, it issued a memorandum encouraging states to do so, as well as implement our other recommendations. HHS also stated that it planned to take additional steps to deter ineligible payments and prevent fraud, waste, and abuse in the program, including

requesting that states address key elements of fraud prevention systems in their "LIHEAP Program Integrity Plan" and reviewing those systems. We strongly support these additional steps and encourage HHS to follow through on these additional actions.

In its written comments, SSA did not agree with our recommendation that the Secretary of HHS evaluate the feasibility of validating applicant and household member identity information with SSA. SSA stated that it could validate applicants for LIHEAP, but not other household members, because "the compatibility requirement of the Privacy Act, 5 U.S.C. § 552a(b)(3), only permits us to disclose and verify information to determine an applicant's entitlement to an income maintenance program." Section 552a(b)(3) of the act allows disclosure of information for a routine use published by the agency in the *Federal Register*. However, the actual language of the routine use that SSA published allows disclosure "to Federal, State, or local agencies (or agents on their behalf) for the purpose of validating SSNs those agencies use to administer cash or non-cash income maintenance programs or health maintenance programs" as a routine use in which disclosure is allowable.¹⁶ We believe that this language is broad enough to include validation of household members who are beneficiaries of LIHEAP assistance.

Illinois, New Jersey, New York, Ohio, and West Virginia expressed difficulty in obtaining access to SSA records to validate Social Security numbers and verify income. We support any initiatives, such as EVS and State OnLine Query, that are allowed by federal law to provide the states the necessary information from SSA. Lack of validation of identity and income information were two of the major problems that we identified in our investigation of LIHEAP.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. We will then send copies of this report to other interested congressional committees, the Secretary of HHS, the administrator of SSA, and the LIHEAP program offices of Illinois, Michigan, New Jersey, New York, Ohio, Virginia, and West Virginia. The report also is available at no charge on the GAO Web site at <http://www.gao.gov>.

¹⁶ 74 *Fed. Reg.* 62866 (Dec. 1, 2009).

If you or your staff have any questions about this report, please contact me at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report.

A handwritten signature in black ink that reads "Gregory D. Kutz". The signature is written in a cursive style with a large initial "G".

Gregory D. Kutz
Managing Director
Forensic Audits and Special Investigations

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 384

BILL TITLE: prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.

DATE: February 16, 2011

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Gould

Seconded by Rep. Pilotte

Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 16-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carol Vita, Clerk

Rep Carol Vita

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 384

BILL TITLE: prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.

DATE: 5/16/11

LOB ROOM: 306

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. GOULD

Seconded by Rep. PILOTTE

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Carol Vita, Clerk

Rep Carol Vita

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: 384 Title: _____

PH Date: ____/____/____ Exec Session Date: ____/____/____

Motion: ITL Amendment #: _____

MEMBER	YEAS	NAYS
McGuire, Carol M, Chairman	✓	
Hawkins, Kenneth, V Chairman	✓	
Sytek, John J	✓	
Day, Russell C	✓	
Gould, Kenneth H	✓	
Pratt, Calvin D	✓	
Vita, Carol M, Clerk	✓	
Perkins, Lawrence B	✓	
Winter, Steven J	✓	
Bowers, Spec	✓	
Hansen, Peter T	✓	
Proulx, Mark L	✓	
Whitehead, Randall A	✓	
Schmidt, Peter B	✓	A
Pilotte, Maurice L	✓	
Jeudy, Jean L	✓	
Sullivan, Daniel J		A
TOTAL VOTE:	15	0

Committee Report

CONSENT CALENDAR

February 17, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on EXECUTIVE DEPARTMENTS AND
ADMINISTRATION to which was referred HB384,

AN ACT prohibiting the office of energy and planning
from requiring social security numbers from applicants
of any program administered by the office, except when
required under federal law or regulation. Having
considered the same, report the same with the following
Resolution: **RESOLVED, That it is INEXPEDIENT TO
LEGISLATE.**

Rep. Kenneth H Gould

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	EXECUTIVE DEPARTMENTS AND ADMINISTRATION
Bill Number:	HB384
Title:	prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation.
Date:	February 17, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill seeks to maintain personal privacy. The sponsor and the ACLU are persuasive on this subject. However, the agency needs to prevent fraud in the use of taxpayer funds. Social Security numbers are carefully guarded, but are needed in processing applications for fuel and other utility assistance. The committee wants to protect against fraudulent use of tax dollars.

Vote 16-0.

Rep. Kenneth H Gould
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB384, prohibiting the office of energy and planning from requiring social security numbers from applicants of any program administered by the office, except when required under federal law or regulation. **INEXPEDIENT TO LEGISLATE.**

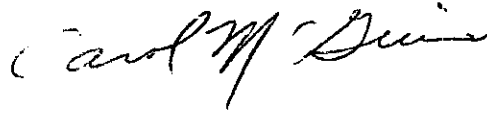
Rep. Kenneth H Gould for EXECUTIVE DEPARTMENTS AND ADMINISTRATION. This bill seeks to maintain personal privacy. The sponsor and the ACLU are persuasive on this subject. However, the agency needs to prevent fraud in the use of taxpayer funds. Social Security numbers are carefully guarded, but are needed in processing applications for fuel and other utility assistance. The committee wants to protect against fraudulent use of tax dollars. **Vote 16-0.**

Original: House Clerk
Cc: Committee Bill File

HB 384

This bill seeks to maintain personal privacy. The sponsor and the ACLU are persuasive on this subject. However, the agency needs to prevent fraud in the use of taxpayer funds. Social Security numbers are carefully guarded, but are needed in processing applications for fuel and other utility assistance. The committee wants to protect against fraudulent use of tax dollars.

Kenneth Gould for the Committee

A handwritten signature in cursive script, appearing to read "Kenneth Gould".

COMMITTEE REPORT

COMMITTEE: ED + A

BILL NUMBER: HB 384

TITLE: Prohibiting the office of energy and planning from requiring social security numbers

DATE: 2-16-2011 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

This bill seeks to maintain personal privacy. The sponsor and the ACLU are persuasive on this subject. However, the agency needs to prevent fraud in the use of taxpayer funds. Social Security numbers are carefully guarded, but are needed in processing applications for fuel and other utility assistance. The committee wants to protect against fraudulent use of tax dollars.

COMMITTEE VOTE: 15-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Kenneth H. Gould
For the Committee