DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

AGENCY: Administration for Children and Families, HHS.
ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Department of Health and Human Services (HHS) governing the administration of block grant programs; it applies specifically to the low-income home energy assistance program (LIHEAP). The rule revises, and makes final, provisions included in an interim final rule that amended the block grant regulations and implemented certain changes to the LIHEAP statute made by the Augustus F. Hawkins Human Services Reauthorization Act of 1990. These changes involve the Department's response to complaints, reduction in the percent of LIHEAP funds that grantees may carry forward from one fiscal year to the next, waiver authority to increase the percent of LIHEAP funds that grantees may use for weatherization, a requirement for additional outreach and intake services under certain circumstances, and a leveraging incentive program. This final rule also makes several related, largely technical and conforming, amendments to the block grant regulations.

effective beginning May 31, 1995, with the exception of section 96.87, Leveraging incentive program, which is effective beginning October 1, 1995. Section 96.87 as included in the interim final rule published in the **Federal Register** on January 16, 1992 (57 FR 1960), is effective through September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Janet M. Fox, 202–401–9351, or Ann Bowker, 202–401–5308.

SUPPLEMENTARY INFORMATION: The Low-Income Home Energy Assistance Act of 1981, title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35), established the low-income home energy assistance program. On July 6, 1982, HHS issued final regulations for LIHEAP and the six other blocks grants it administered at that time (45 FR 29472). Since then, the statute and the block grant regulations have been amended several times.

The Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101–501) was enacted on November 3, 1990. Title VII of Public Law 101–501 contains amendments to the Low-Income Home Energy Assistance Act, including several changes effective in FY 1991 and FY 1992. These changes concern HHS's response to formal complaints, reduction in the maximum amount that grantees may carry forward from one fiscal year to the next, waiver authority to increase the statutory weatherization assistance maximum, a requirement for additional outreach and intake services in certain cases, and a leveraging incentive program.

On January 16, 1992, HHS published an interim final rule (57 FR 1960) amending the block grant regulations and implementing these statutory changes, as required under Public Law 101–501. The interim final rule allowed a 60-day comment period.

We received 25 letters commenting on the interim final rule—two from members of Congress, twelve from State LIHEAP grantees, one from a county, two from Indian tribal grantees, three from home energy suppliers, and five from others. Based on the comments we received and on our experience over the two and half years the interim rule has been in effect, we have revised the interim rule as appropriate. It is now being made final.

In addition to the statutory changes implemented by the interim final rule published January 16, 1992, Public Law 101–501 includes several changes scheduled to affect LIHEAP beginning in FY 1994. These changes concern forward funding based on a program year of July 1 through June 30—whose implementation, initially set for FY 1993, was delayed until FY 1994 by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993 (Public Law 102-394)—and the end of authority to transfer LIHEAP funds to other HHS block grants. The Department published a notice of proposed rule making (NPRM) regarding these changes, and other proposed changes involving both LIHEAP and other HHS block grants, on November 16, 1993 (58 FR 60498). The NPRM allowed a 45-day comment period. Since then, the Human Services Amendments of 1994 (Public Law 103-252), enacted May 18, 1994, changed the forward (or advance) funding program year to October 1 through September 30—the same dates as the current Federal fiscal year, but funded one year in advance. The November 16, 1993, proposed rule also included some provisions that had originally been included in a notice of proposed rulemaking issued by the Department on

July 17, 1992. Based on comments received on these notices of proposed rulemaking, HHS intends to publish a separate final rule implementing appropriate provisions, except for the provisions described below, which are incorporated into the final rule published today.

The final rule published today includes several changes proposed in the November 1993 NPRM. They involve issues that were also addressed in the January 1992 interim rule. One change gives grantees the option to submit a preliminary request for a waiver to increase the statutory weatherization maximum. Other changes relate to the end of grantees' authority to transfer LIHEAP funds to other block grants after FY 1993, and reduction in the amount grantees may carry forward from one fiscal year to the next, and are included in the regulations' discussion of the time period for obligation of LIHEAP funds. These technical amendments implement provisions of Public Law 101–501. We received one comment from a State LIHEAP grantee on the weatherization waiver in the NPRM, and none on the end of transfer authority or reduction in maximum carryover.

The final rule also makes a technical amendment deleting reference to the transfer authority in the regulations' discussion of uses of leveraging incentive funds, because this authority has ended.

Finally, the final rule makes a technical amendment changing the due date of grantees' reports on their leveraging activities, in accordance with the Human Services Amendments of 1994 (Pub. L. 103–252). Title III of Public Law 103–252 contains amendments to the Low-Income Home Energy Assistance Act. We plan to address most of these statutory amendments in a proposed rule at a later date.

The provisions of the regulations, together with the comments we received and our responses, are discussed below.

Section-by-Section Analysis of Changes in the Regulations

Subpart B—General Procedures

Section 96.14 Time Period for Obligation and Expenditure of Grant Funds

Public Law 101–501 amended section 2607(b)(2) of the LIHEAP statute, reducing the maximum amount of LIHEAP funds that grantees may carry forward for obligation in the succeeding fiscal year, from 15 to 10 percent of the funds payable to the grantee and not transferred to another HHS block grant.