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## Energy Assistance Programs

### Secs. 16a-41-1—16a-41-12.

Repealed, July 30, 1992.

### Secs. 16a-41-13—16a-41-29. Reserved

## Coordination of Energy Assistance, Energy Conservation, and Renewable Resource Programs

### Sec. 16a-41-30. Definitions

(a) “Applicant” means a natural person or a household seeking assistance from any energy program.

(b) “Energy program” means any energy or fuel assistance program or energy conservation loan, grant, audit or service program, or any renewable resources loan, grant, or service program which is administered or funded in whole or in part by the state.

(Effective November 2, 1987)

### Sec. 16a-41-31. Scope

These regulations apply to any public or private agency or organization administering or providing energy programs.

(Effective November 2, 1987)

### Sec. 16a-41-32. Referrals

(a) All public and private agencies administering energy programs shall refer any applicant to all other energy programs for which the applicant may be eligible, in accordance with subsection (b) of this section.

(b) Such referral shall include, but not be limited to, the distribution to all applicants of written materials which shall describe, in summary form, the eligibility criteria for, services provided through, and means of contacting such energy programs. Such descriptive summaries shall employ the precise language provided by the office of policy and management under subsection (c) of this section, or such substitute language as may be approved in writing by the office of policy and management. Each state agency which funds other public or private agencies which administer energy programs, has legal authority over such agencies in their administration of energy programs, or which itself directly administers energy programs, shall be responsible to ensure printing of such referral materials by itself or by such agencies in such format as the office of policy and management may prescribe in accordance with subsection (c) of this section, in quantities sufficient to provide a copy to all applicants.

(c) The office of policy and management shall, by August 30 of each year, prepare and provide to all agencies which administer energy programs, written material which describes in summary form, the eligibility criteria of, services provided through, and means of contacting such energy programs, together with a description of the specific format, if any, which the office of policy and management wishes such agencies to use in printing such referral materials.

(d) A referring agency shall not be responsible for determining the eligibility or suitability of any applicant for any program administered by another agency.

(Effective November 2, 1987)

**Sec. 16a-41-33. Simultaneous applications**

Any agency which administers more than one energy program shall take applications at the time of the initial visit of any applicant for all such energy programs which are administered by the agency at that time.

(Effective November 2, 1987)

**Weatherization Assistance Program**

**Sec. 16a-41-34. Definitions**

As used in Sections 34 through 45 inclusive

(a) Administrative overpayment means an overpayment which occurs through the error or fraud of a service provider agency or fraud on part of a recipient and may be attributable to an action or inaction by the service provider agency.

(b) Appellant is an individual or service provider agency seeking administrative remedy, through a Departmental Hearing or a Community Action Agency Desk Review, to a decision rendered concerning the weatherization assistance program.

(c) Applicant means any individual who has filled out an application.

(d) Applicant household is any individual or group of individuals living together as one economic unit whose source of residential heat is purchased in common and is applying for weatherization assistance.

(e) Bid is a specific price quotation requested from a potential seller or supplier. Bids must follow the format set forth in Section 16a-41-31, Standards for Procurement.

(f) Commissioner means the Commissioner of the Department of Human Resources.

(g) Current income status is the applicant household's income from the previous four (4) weeks preceding the date of application or the fifty-two (52) weeks from the date of application, except in cases of self-employment.

Income derived from self-employment shall be determined based upon the six (6) calendar months preceding the date of application.

(h) Departmental Hearing is:

(1) A hearing held between an applicant or a service recipient and the Department of Human Resources in response to the filing of an appeal; or,

(2) A hearing held with an applicant or a service recipient and a service provider agency and the Department of Human Resources in response to the filing of an appeal.

(i) Disabled means any individual who has a physical or mental impairment, whether congenital or acquired, which substantially limits one or more major life activities, has a record of having such an impairment, or is regarded as having such an impairment, including, but not limited to, blindness, epilepsy, deafness or hearing impairment, or reliance on a wheelchair or other remedial appliance or device.

(j) Dwelling unit is a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters with a private entrance.

(k) Elderly means any individual 60 years of age or over.

(l) Desk Review is a process by which a service provider agency responds in writing to an appeal filed by an applicant or a service recipient.

(m) Excluded income is as follows:

(1) Day care, foster care, or homecare service program payments.

(2) Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902, 42 USC 1636).

(3) The value of the coupon allotment made under the Food Stamp Act of 1964 [78 Stat. 705, as amended, 7 USC 2016 (c)].

(4) The value of assistance to children under the National School Lunch Act (60 Stat. 230, 42 USC 1751 et. seq.) as amended by PL 90-302.

(5) The value of assistance to children under the Child Nutrition Act of 1966 [80 Stat. 889, 42 USC 1870 (b)].

(6) Any grant or loan to any undergraduate student for tuition and fees made or insured under any program administered by the Commissioner of Education as provided by Section 507 of the Higher Education Amendments of 1968, PL 90-575 (82 State. 1063).

(7) Payments to volunteers under the Domestic Volunteer Service Act of 1973 as provided by Section 404 (g) of that act (87 State. 409, 42 USC 5044).

(8) The value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1959, as provided by Section 2 (n) of PL 94-375 (90 Stat. 1068).

(9) Value of Federally donated foods distributed pursuant to section 32 of PL 94-320 or section 416 of the Agriculture Act of 1949 [7 CFR 250.6 (e) (9) as authorized by 5 USC 301].

(10) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to section 418 of PL-93-113.

(11) Income from employment or self-employment of individuals under 18 years of age who are at least part-time students.

(n) Fraud is:

(1) Any false statement, misrepresentation, or concealment of or failure to disclose information regarding circumstances relevant to a determination of eligibility.

(2) Any false statement or misrepresentation or impersonation or other fraudulent act or device, made to obtain or attempt to obtain, or aiding or abetting any attempt to obtain any assistance to which a household is not entitled.

(o) Household means any individual or group of individuals living together in one dwelling unit, whose source of residential heat is customarily purchased in common.

(p) Included Income is as follows:

(1) Income from employment means the gross earnings from salaries, wages, and tips for all household members excluding those cited in Section 16a-41-25 (m) (1).

(2) Income from self-employment means the total gross profit from business enterprises, for all household members, excluding those cited in Section 16a-41-25 (m) (1), including farming, remaining after the total cost of production of the income is deducted from the gross income. Personal expenses such as income tax payments, social security deductions, lunches, transportation, etc., are not classified as business expenses.

(3) Income from all other sources means pensions, annuities, dividends, interest, rental income, estate or trust income, royalties, social security or supplemental security income, unemployment compensation, workmen's compensation, alimony, child support, and cash assistance from federal, state and municipally funded assis-

tance programs that are not otherwise excluded as income by the federal or state governments for all household members.

(q) Materials Inventory means the actual cost of weatherization materials, repair materials and low cost/no cost items in bulk inventory and not yet transferred and cost allocated to a job site. This amount shall be based on a physical count and reconciliation to supporting documentation.

(r) Multi-Family means any structure with three (3) or more separate living quarters.

(s) Overpayment means assistance to which a service recipient was not entitled because he/she failed to meet the eligibility requirements for which the payment was made or the amount of the assistance was not appropriate to the household's circumstances.

Overpayment may occur through a fraudulent action by the service recipient or the service provider agency or through administrative error.

(t) Individual means any person of majority status as defined by Section 1-1d of the Connecticut General Statutes or any individual not of majority status who is a head of household.

(u) Recoupment is the recovery of any assistance properly paid because a household withheld information on their application or because of an administrative overpayment.

(v) Redetermination is the periodic evaluation of household income to determine eligibility for assistance which shall occur at least every twelve (12) months from the initial date of eligibility.

(w) Repair Materials are items necessary for the effective performance or preservation of weatherization materials.

(x) Respondent is an individual or service provider agency against whom an appeal is filed.

(y) Service provider agency is an agency with which the Department of Human Resources contracts for the provision of weatherization assistance services.

(z) Service recipient is a household that has been determined eligible for weatherization assistance.

(aa) Weatherization Materials are those items intended primarily to improve the heating efficiency of a dwelling unit as cited in section 16a-41-30 a-h.

(bb) Willful withholding of information means oral or written misstatements made by an applicant/service recipient in response to questions from a service provider agency regarding circumstances affecting the provision of assistance, or the failure by an applicant household to provide documentation(s), certification(s) or information required of it by the service provider agency.

(cc) Emergency repairs are items necessary for the operation of a furnace.

(dd) Head of Household is an individual who has maintained and contributed to more than one-half ( $\frac{1}{2}$ ) of the maintenance of the household for the previous twelve (12) months, and has had that dwelling as his/her principal residence for that time.

(ee) S.W.A.P. is the acronym for the State Weatherization Assistance Program.

(ff) D.O.E. is the acronym for the United States Department of Energy.

(Effective August 25, 1986)

### **Sec. 16a-41-35. Eligibility**

(a) Income eligibility exists when the household's included income, based on the total gross annual income, as determined by that household's current income

status, excluding assets, and, based on size, does not exceed 150% of the Federal Poverty Income Guidelines for the current program year.

(b) When a dwelling unit/s is located in a building that has five (5) or more units, and at least sixty-six percent (66%) of the households in that building, are at or below one hundred and fifty percent (150%) of the current federal poverty guidelines, then, all of the dwelling units in that building may be weatherized. When a dwelling unit/s is located in a building that has four (4) or less units, fifty percent (50%) of the households must be income eligible. However, the expenditures for that entire building may not exceed the maximum cost per unit multiplied by the number of eligible households.

(c) Income may be zero for any applicant household and, in cases of self-employment only, may result in a negative income. Zero income must be sworn or affirmed to by the applicant.

(d) Program eligibility for weatherization exists when a household:

- (1) Is income eligible as stated in section 16a-41-26 (a).
- (2) The dwelling unit is in sufficient physical condition to warrant the installation of insulation materials.

(Effective August 25, 1986)

### **Sec. 16a-41-36. Limits of assistance**

(a) This is not an entitlement program.

(b) Weatherization benefits shall be subject to the availability of funds.

(c) Weatherization assistance for applicant households shall not exceed \$750.00 for materials. A waiver must be approved by the Commissioner or his designee for work on heating systems, for single family owner occupied dwelling units that require additional materials beyond the \$750.00 limit. Waivers will be required in writing by the service provider agency's energy coordinator prior to work started on a unit.

(Effective August 25, 1986)

### **Sec. 16a-41-37. Application process**

(a) For eligible applicants, the fuel assistance award letter shall include a pre-addressed weatherization card that solicits dwelling unit data.

(b) To be eligible for weatherization assistance, applicants must return the card in person or by mail within 30 days from the date on which the service provider agency or the Department of Income Maintenance mailed their award letter.

(c) The service provider agencies shall check the returned cards against their list of units completed since the beginning of SWAP/DOE coordination.

(d) The service provider agencies shall mail a denial letter to applicants if weatherization work had been previously completed on that dwelling unit.

(e) The service provider agencies shall then place the remaining eligible cards in chronological order organized by municipality.

(f) Weatherization work will be scheduled on a first come first serve basis.

(g) From this process the service provider agencies shall develop a planned caseload, which shall be served during the program year.

(h) This process shall determine seventy five percent (75%) of the dwelling units to be weatherized. The remaining twenty five percent (25%) will be determined at the discretion of the service provider agency.

(i) If there are eligible households that cannot be served during the program year, those cards will be carried forward to the following program year.

(j) If a service provider agency has exhausted their eligible weatherization caseload, they shall use their energy assistance caseload for outreach services.  
(Effective August 25, 1986)

**Sec. 16a-41-38. Determination of eligibility and provided services**

(a) All persons shall be allowed to file an application.

(b) Service provider agencies, or their designees, shall use a standard application form for fuel assistance and weatherization services provided by the Department of Human Resources.

(c) Service provider agencies, or their designees, shall take simultaneous applications from persons for any energy, utility, weatherization or conservation loans, audits, assistance, or services made available by the Commissioner and which the service provider agency administers.

(d) Service provider agencies shall advise applicants as to the best way to maximize the benefits potentially available to them by providing information on the maximum amount of the assistance available and how to obtain it.

(e) Service provider agencies, or their designees, shall assist persons in completing application forms and in locating interpreters for applicants whose primary language is not English.

(f) Service provider agencies shall take whatever actions are necessary to insure that elderly and disabled persons are not denied equal access to the program due to their age or physical condition, including but not limited to home visits.

(g) Service provider agencies, and their designees, shall counsel all applicant households as the needs of those households require and make referrals as appropriate to the individual household.

(h) As a condition of initial and continuing eligibility, the applicant/service recipient shall make him/herself available for personal interview at a location designated by the service provider agency.

(i) The applicant/service recipient shall verify all factors pertaining to eligibility, technical and financial, as required by the Commissioner. Denial or discontinuance of assistance shall result from failure to provide verification of information deemed by the Commissioner to be essential to the determination or redetermination of eligibility.

(j) The applicant/service recipient or his/her duly authorized representative shall have access to his/her application file during the regular business hours of the service provider agency with whom he/she applies.

(k) The applicant/service recipient shall have a decision rendered whether the dwelling unit will be weatherized during the program year.

(Effective August 25, 1986)

**Sec. 16a-41-39. Allowed materials**

(a) Caulking and weatherstripping of doors and windows.

(b) The replacement of an inoperable furnace system or a system beyond repair in single family owner occupied dwelling units, in cases where DHR has approved this measure.

(c) Furnace efficiency modification:

(1) Replacement burners designed to substantially increase the energy efficiency of the heating system.

(2) Optimizing the firing rate in oil-fired systems and clock thermostats.

(d) Ceiling, attic, wall, floor, pipe and duct insulation.

(e) Primary window and door replacement, repair or modification.

(f) Storm windows, multi-glazed windows and doors, heat-absorbing or heat-reflective window and door materials.

(g) The following insulating or energy-conserving devices or technologies:

- (1) Skirting.
- (2) Items to improve attic ventilation.
- (3) Vapor barriers.
- (4) Materials used as a patch to reduce infiltration through the building envelope; and,
- (5) Water-flow controllers.
- (6) Consumable supplies.
- (7) General heat waste items, such as window or door locks, electrical outlet gaskets, hot water heater insulation, or any new or innovative material deemed appropriate by DHR.

(Effective August 25, 1986)

### **Sec. 16a-41-40. Standards for procurement**

(a) General Standards for Procurement of Materials, or Contractor Labor:

(1) The service provider agencies must insure that all procurement transactions will be conducted in a manner to provide, to maximum extent practicable, open and free competition.

(2) Solicitations for bids/offers shall clearly set forth all requirements that the bidder/offeror must fulfill in order for a bid/offer to be evaluated by the grantee.

(3) Awards shall be made to the bidder/offeror whose bid/offer is responsive to the service provider agency's solicitation and is most advantageous to the service provider agency; price and other factors considered.

(4) The service provider agencies must maintain a code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding and administration of contracts using State Funds. Such codes or standards must provide that:

No service provider agency employee, officer or agent shall participate in the selection, award or administration of a contract in which State Funds are used, where to his knowledge, he or his immediate family or partner has a financial interest or with whom he is negotiating or has any arrangement concerning prospective employment. The service provider agency's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. Such standards shall provide for disciplinary action to be applied for violation of such standards by the service provider agency's officers, employees or agents.

(5) Procurement standards shall be consistent with the federal standards covered by OMB Circulars A-102 and A-110 and will be amended from time to time.

(b) Specific Standards and Requirements for Procurement of Weatherization Materials, or Contractor Labor

(1) Steps must be taken by the service provider agencies to avoid the purchasing of unnecessary or duplicate items.

(2) Solicitations of bids (price quotations) must include:

Bid specifications: Clear and accurate descriptions of technical requirements for goods or services sought must be provided by the service provider agency to potential suppliers with every request or solicitation of a bid or price quotation. Such descriptions shall not, in competitive procurements, contain features which unduly restrict competition (e.g., "Brand name or equal" descriptions may be used as a means to

define the performance or other significant features of the named brand which must be met by bidders/offerors and shall be clearly specified).

Criteria for: The service provider agencies must determine criteria for selection of a bid in advance and make that criteria known to potential bidders (e.g., possible criteria include: price, quality of goods, delivery date, etc.)

Additional items: Where bids exceeding \$6,000 are to be received in writing (see sub-section (c) below), bid invitations must state date, time, and location for public opening of bids; that any bids not received on time will be rejected and returned unopened; and that the service provider agency may reject any and all bids.

(c) Solicitation of Bids—Manner of Getting Bids (price quotes)

(1) Purchases valued at less than \$500 may be made at the discretion of the Executive Director without competitive quotations.

(2) For purchases valued at \$500 to \$4,000, telephone quotations are acceptable. Quotations from no less than three (3) sources will be solicited and recorded on a telephone bid form. Orders may be placed on the basis of the lowest acceptable price quotation. Records must be kept until the program is audited and a certificate of termination is issued.

(3) Formal requests for price quotations will be prepared by service provider agencies for purchases valued from \$4,000 to \$6,000 and will require a minimum of three (3) formal (written) quotations from vendors.

Identical formal requests describing in detail the items to be purchased, stating the required date of delivery, terms of payments, etc., must be presented to vendors believed to be capable of furnishing the items to be purchased. In all cases, it is mandatory that those solicited submit their quotations on the basis of identical requests for price quotations.

Requests for quotations and the quotations for each procurement action will be filed permanently and kept available for review by the Department of Human Resources, or its agents and representatives.

(4) For a purchase which is estimated to cost \$6,000 or more, solicitation of bids must be formally advertised and bids received must be written, sealed and sent to the service provider agency for public opening at the advertised time and place. Exceptions to this advertising requirement are described in sub-section (5) below.

(5) Procurement may be negotiated if it is impossible or not feasible to use formal advertising. In general, regulations provide that procurements of materials may be negotiated if:

A. The public emergency will not permit the delay incident to advertising.

B. The material to be procured is available from only one (1) person or firm (i.e., sole source — see sub-Section (6) below); or,

C. No acceptable bids have been received after formal advertising.

However, regulations do require that notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(6) Sole Source Procurement

It is recognized that, in some instances, service provider agencies may require certain items which due to their technical nature or relative lack of capable vendors, must be purchased from a “sole source.”

For a proposed sole source contract, or where only one (1) bid is received involving \$2,000 or more, the bid may not be awarded, or the sole source accepted, without the prior approval of the Department of Human Resources.

(d) Service provider agencies must utilize small businesses and minority-owned businesses whenever possible.

(e) Service provider agencies shall establish some form of price or cost analysis to be made with every procurement. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices, etc.

(f) Service provider agencies must use purchase order for ALL procurements.

NOTE: All purchase orders must, on their face, show the Federal Specification, if any, for the item being purchased.

(g) Procurement Contracts-when required-contents:

(1) For purchases in excess of \$2,000 the service provider agency must have, in addition to the purchase order, a signed contract (i.e., a written statement of the key terms of the agreement, signed by the seller and an authorized service provider agency representative. KEY TERMS to be included are: names of the service provider agency and the seller, the purchase price, the description and the quantity of goods purchased, the payment terms, and the date and terms of delivery).

A service provider agency may, as a matter of agency policy, require a contract for purchases of less than \$2,000. Service provider agencies are advised, but not required, to consider requiring a contract for the purchase of any and all services.

(2) For purchases in excess of \$6,000, the service provider agency's procurement contract must include the following provisions, in addition to the key terms listed in the preceding sub-section (1) above:

Provisions for contractual or legal remedies in instances in which contractors violate or breach contract terms, and also provisions for such sanctions and penalties for violation of the contract as may be appropriate;

Suitable provisions for the termination, and descriptions of conditions under which the contract may be terminated;

All negotiated contracts (for over \$6,000) awarded by service provider agencies shall include a provision to the effect that the service provider agency, Department of Human Resources, or any of their duly authorized representatives shall have access to any books, documents, papers, and records which are directly pertinent to the Weatherization Program for the purpose of making an audit, examination, excerpts, and transcriptions.

(h) Recordkeeping on Procurement of Materials

(1) The service provider agency must keep up-to-date and complete records of all procurements available for inspection and auditing by the Department of Human Resources, or its authorized representative.

(2) Such records shall include:

A copy of the bid specifications and criteria for awarding the bid (for each procurement in excess of \$500.00).

Manner used to obtain bids (e.g., telephone, letter, newspaper ad for all procurements).

The purchase order (for all procurements).

The actual contract, if one is required by the service provider agency or Department of Human Resources.

For purchases of \$6,000 or more, justification for use of negotiation in lieu of advertising (if applicable) and the basis for the cost or the price negotiated.

(i) All materials purchased by service provider agencies, as discussed in the subsections above, shall be governed by the following:

(1) Standards: Only materials which meet or exceed the Federal standards shall be purchased with funds provided by Department of Human Resources to carry out a program of weatherization assistance.

(2) Conditions: To insure compliance with the above requirement:

All purchase orders must, on their face, state the applicable Standard for the product being purchased.

Suppliers of products must, either in a letter of acknowledgement or on their vendor's invoice for payment, indicate acceptance of the standards for the product(s) being supplied.

(3) Inspection: Upon receipt of orders, a visual inspection shall be made of the product(s) to insure conformance to the conditions specified on the purchase order.

(Effective August 25, 1986)

### **Sec. 16a-41-41. Fraud and overpayment**

(a) Identification and Reporting of Overpayment(s):

(1) All overpayment(s) will be referred to the Department of Human Resources; and,

(2) Any service provider agency referring any overpayment to the Department of Human Resources shall indicate whether, in its judgment, the overpayment was caused by the withholding of information, or agency error.

(b) Recoupment of Overpayments

(1) Recoupment of administrative overpayment(s) shall be 100% of all such overpayment reimbursed by the service provider agency from locally generated funds at a rate to insure full restitution of all overpayments by the end of the annual program period.

(2) Recoupment of overpayments resulting from willful withholding of information by applicant/service recipients;

(A) Where an overpayment is caused by the household's willful withholding of information the recoupment of said overpayment shall be made from the household's available income, excluding income as defined in Section 16a-41-34 (m) (1).

(B) Upon receipt of those cases referred to the Department of Human Resources in which an allegation of willfulness has been made, a determination will be made, by the Department, as to whether or not the cases will be recommended for prosecution.

When the determination is not to pursue prosecution, the Department of Human Resources will initiate the following recoupment process.

(i) The Department of Human Resources will notify the service provider agency and the household of its decision concerning said overpayment.

(ii) The Department of Human Resources will remand the case to the service provider agency for the discontinuance of further assistance to the household, and the development, with the subject household, of an amortization agreement for full repayment of the overpayment(s) by September 30 of the program year in which the willful withholding occurred.

(iii) In every instance in which the Department of Human Resources remands a case to a service provider agency or finds against a service provider agency and proposes to recoup, advance notice shall be given, in writing, stating the nature of the overpayment(s) and the amount(s) due. The household or service provider agency will also be advised of their right to appeal the decision within seven (7) days of receipt of the notice.

(C) Fraud and Suspected Fraud

(i) All fraud and suspected fraud will be referred in writing to the Department of Human Resources.

(ii) Any service provider agency referring any fraud or suspected fraud will indicate the nature of the fraud being reported.

(iii) Any assistance paid on behalf of any household as a result of fraud may be recovered in an action brought against the applicant for the household or the service provider agency.

(iv) Any applicant/service recipient who perpetrates any fraud or persons who aid and abet in the perpetration of any fraud, to obtain assistance under these regulations, shall be subject to the penalties under these regulations, shall be subject to the penalties for larceny established under Sections 53a-122 to 53a-125 of the Connecticut General Statutes, inclusive, depending upon the amount involved.

(v) Persons who misrepresent their circumstances in applying for assistance are subject to prosecution and recoupment of any benefits provided, and may be prohibited from participation for a period of two program years following the year in which the offense occurred. Clients who divert benefits to ineligible persons are subject to the same penalties, following proper due process.

(iv) Vendors committing fraud, misrepresentation, or a violation of any aspect of their agreement with the service provider agencies are subject to prosecution, and prohibition from the program for up to five years following the program year in which their offense occurred, upon conviction. Vendors suspected of fraud may be suspended from participation in the weatherization program during the pendency of legal proceedings.

(Effective August 25, 1986)

### **Sec. 16a-41-42. Appeals**

#### (a) Desk Review

(1) A desk review is allowed when:

(A) An applicant household has been denied assistance;

(B) An applicant/service recipient household is aggrieved because the service provider agency failed to notify the household of the status of their application within the program year.

(C) A service recipient household is aggrieved because it believes that not enough weatherization work was completed or the weatherization work was done incorrectly.

#### (2) Process for a Desk Review

(A) A request for a desk review shall be in writing to the executive director of the service provider agency and shall be signed by the aggrieved. The request shall include a statement of the grievance.

(B) A request for a desk review shall be mailed within ten (10) days, excluding State designated holidays, of the mailing date of the decision being appealed or within ten (10) days, excluding state designated holidays, of the occurrence, but no later than the end of the program year.

(C) The executive director, or any supervisor he designates, none of whom has participated in the original decision regarding the recipient's eligibility, shall make a finding based on the desk review.

(D) The applicant/service provider may withdraw the request if a satisfactory resolution has been determined.

(E) Within fifteen days, excluding state designated holidays, from the date of the receipt of the request, the service provider agency person in charge of the review shall make a decision based on an evaluation of the evidence as submitted at the time of application and shall notify the recipient in writing, on a form provided by the Department of Human Resources, of the decision. This written statement shall include the following if the decision is adverse:

(i) over income

- (ii) application incomplete
- (iii) inadequate documentation
- (iv) other

(F) If the decision is adverse to the applicant/service recipient, he shall be informed and afforded the right to make a written request for a departmental hearing within fifteen working days of the notification of such adverse decision. The applicant/recipient requesting such hearing may choose either a review by the departmental hearing officer of the record of the evidence of the desk review to determine whether the decision of the agency person in charge of the desk review was supported by substantial evidence in the record, or a new hearing (DE NOVO) in which the recommendation of the departmental hearing officer is based exclusively on evidence and other material introduced at the departmental hearing.

(b) Departmental Hearings

(1) An applicant/service recipient who remains aggrieved following a desk review may appeal that decision, in writing, within ten (10) working days of the notification of such decision.

(2) An applicant or a service provider agency who is aggrieved by a decision of fraud or overpayment may appeal that decision within ten (10) working days of receipt of notification of fraud or overpayment.

(3) All appeals must be sent to the Commissioner of the Department of Human Resources.

(4) Upon receipt of a request for a hearing the Commissioner shall designate a hearing officer.

(5) All appeals received shall be acknowledged by the hearing officer.

(6) The hearing officer shall schedule a hearing within thirty (30) working days of the date the appeal is received by the Commissioner.

(7) Continuances or changes in scheduled hearings shall be granted by the hearing officer only for good cause but must be rescheduled within thirty (30) working days of the originally scheduled hearing. The appellant may withdraw the appeal, in writing to the hearing officer, at any time prior to the hearing.

(8) The hearing officer shall be in charge of the proceedings.

(9) The appellant shall act as a witness in his own behalf, and may bring additional witnesses. The respondent may be represented at the hearing or may choose not to be represented.

(10) Each hearing will be closed to the public. Witnesses may be sequestered at the discretion of the hearing officer. The hearing officer may exclude any person who engages in disruptive conduct, including individuals directly involved with the hearing.

(11) Testimony may be given by the appellant and his witnesses and by the respondent in response to questions asked by the hearing officer. Testimony may be freely given so long as it is reasonably relevant to the questions asked and is offered in a proper manner. The technical rules of evidence do not apply, although testimony is required by law to be given under oath. If the appellant is represented by legal counsel, his direct testimony is usually given in response to his attorney's questions. His attorney may also question the designee of the service provider agency. The appellant who is not represented by counsel may ask questions which are answered by the hearing officer or directed by him in turn to a departmental or service provider agency representative.

(12) Exhibits may be introduced by the appellant or the respondent or other witnesses to substantiate or amplify their oral testimony. For example, wage slips

and other papers or records may be introduced, if relevant to the case. If the individual wishes to retain possession of a document introduced as an exhibit, the substance of it may be dictated into the record by the hearing officer. The appellant has the right to examine all documents and records used at the hearing at any reasonable time before or during the hearing.

(13) Any change in circumstances which occurs in the case after a hearing has been held shall have no effect on the hearing decision.

(14) The hearing officer has the power to compel the attendance and testimony of witnesses and the production of books and papers where such action becomes necessary.

(15) A mechanical recording of the proceedings shall be made for use by the hearing officer as a basis for this decision and shall be retained for a period of sixty (60) working days following the hearing. A transcript of the recording shall be made available to the appellant or the respondent upon request to the Commissioner, at cost to the requester, subject to the provisions of Section 1-15 of the Connecticut General Statutes.

(16) Within forty-five (45) working days from the hearing date, the hearing officer shall make a decision based on an evaluation of the testimony and exhibits introduced at the hearing. Such decision shall supersede the decision by which the appellant was aggrieved. The decision of the hearing officer represents a final and positive finding with respect to the point or points at issue as of the date of decision being appealed.

(17) A formal memorandum of decision shall be prepared by the hearing officer and sent to the appellant and the respondent. If the appellant or the respondent or both has been represented by legal counsel at the hearing, a copy of the memorandum of decision shall be sent to that attorney. Such memorandum shall include a statement of the point or points at issue at the time the hearing was requested and a summary of related facts, specific provisions of law and policy applicable to the case and the reasoning on which the decision is based and conclude with a statement of the decision.

(18) The right of appeal to a decision of the hearing officer to the Superior Court is governed by Section 4-183 of the Connecticut General Statutes.

(c) Departmental Hearings Appeal Process

(1) The appeal process is designed to allow for the resolution of the matter prior to a hearing if possible.

(2) All appeals will be remanded for review to the service provider agency that certified the application.

(3) The results of the review shall be forwarded to the hearing officer for determination as to the merits of the original appeal.

(4) Appellants will be notified by the hearing officer of the results of the review and be afforded an opportunity, if appropriate, to withdraw his or her appeal.

(d) Desk Review and Departmental Disposition of Appeals

(1) Appeals may be withdrawn by the person making them. This action shall be voluntary and may be made at any time prior to the hearing by written statement of such action addressed to the hearing officer. All withdrawals shall be acknowledged in writing by the hearing officer.

(2) A hearing request may be dismissed by the hearing officer if:

(A) The appellant fails to appear at the designated place and time on the appointed date; or,

(B) The point at issue is resolved prior to the hearing and the request is not voluntarily withdrawn by the appellant. A written notice of dismissal shall be sent by the hearing officer to the appellant.

(3) Once a hearing is held, the hearing officer shall issue a decision in accordance with Section 16a-41-42 (b) (8) or Sections 16a-42 (b) (15) and (16).

(Effective August 25, 1986)

**Sec. 16a-41-43. Conflicts of interest**

No employee of any service provider agency, or its designee, shall certify to the eligibility of any other employee or board member of said service provider agency. All such certifications shall be made by the Department of Human Resources. Nothing herein, however, shall preclude any employee of any service provider agency, or its designee, from participation in this program.

(Effective August 25, 1986)

**Sec. 16a-41-44. Administrative and reporting requirements**

(a) Service provider agencies will execute administration fund agreements.

(b) By the tenth day of the month, each service provider agency will submit a financial statement applicable to the funding grant made to the service provider agency for administration.

(Effective August 25, 1986)

**Sec. 16a-41-45. Payments disregarded as income**

No payment made under this program shall be considered income for the purpose of determining eligibility for benefits or level of benefits under any other program of assistance.

(Effective August 25, 1986)