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To: Special Subcommittee on Energy, Kentucky General Assembly
From: Cathy Hinko
Re: Comments on the proposed use and distribution for federal block grant funds contained in the FFY 2016 Low Income Home Energy Assistance Program (LIHEAP)
Date: 19 June 2015

These comments are made by the Metropolitan Housing Coalition (MHC) located in Louisville, Kentucky. MHC is a non-profit organization focusing on fair and affordable housing in the Louisville Metropolitan Statistical Area. MHC has 330 organizational and individual members.

In 2008, MHC studied the effect of utility costs and consumption on the affordability of housing. MHC members believe that fair and affordable housing includes heat and lights, not just the physical unit.

Summary:

The federal Low-Income Home Energy Assistance Program is designed to serve low-income households without bias. Funds are allocated to the state and apportioned according to the number of low-income households (as defined in the federal law) in a jurisdiction within the state. There are two components to LIHEAP, the "subsidy" portion and the "crisis" portion.

Much of the policy making on distribution is left to state officials in the Cabinet for Health and Human Services (Cabinet). An analysis of those policies for the crisis component shows a deliberate and systemic bias to syphon off funds for urban areas so that extra funds can be redistributed to non-urban areas, therefore undermining the distribution mandated by the federal law. This bias masks itself as policies applied to households in an area with metered utilities and policies applied to areas where heating is through the purchase of bulk energy. The inequity is made exponential by apportioning part of the crisis funds based on the prior year's expenditure.

Jefferson County is the home of 43.39 percent of all African Americans living in Kentucky and are disproportionately lower-income compared to Whites.

- Policies about areas that have metered utilities deliberately prevent full usage of the allocation of LIHEAP funds, particularly Crisis funds.
  - The policy makes the heating season end in mid-February for assistance in heating a home, a full six weeks before the heating season ends for dominantly White areas using non-metered heating sources.

- The policy then exacerbates the inability to use the funds by using a formula for the next season that includes the prior year's usage.
- The policy reallocates administrative monies unfairly because the funds cannot be used fully in areas with metered utilities.
- The allocation of funds by dollar is greater in predominantly White areas using non-metered heating sources.
- The policy does not allow full potential for energy efficient rehab of homes, limiting the flexibility of the use of funds.
- The policy allows applicants in non-metered areas to self-assert they need assistance, but requires burdensome third party verification for applicants in metered areas, which delays assistance and cuts the heating season by six weeks.

This has a racially disparate impact that violates Section VI of the Civil Rights Act and these policies should be reviewed for compliance with all federal laws, including Fair Housing. Utility subsidy is directly related to safe decent housing and MHC believes that Fair Housing Laws are applicable as well as Title VI.

Issue: Racial Disparity in allocating a federal benefit

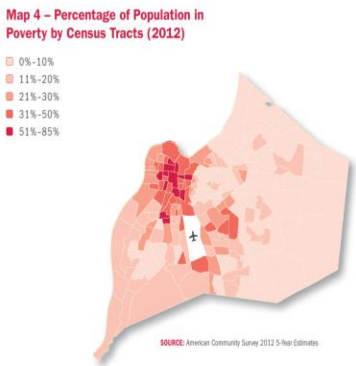
Issue: The overtones of racial bias that permeate this decision-making are disturbing. According to the US Census Bureau, in 2013 the population of Kentucky was 4,399,583. Of that population, 8.2 percent or 360,766 persons were Back of African American alone compared to 88.5 percent who were White.

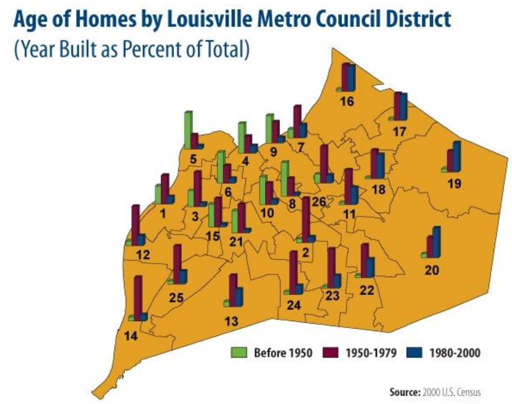
Jefferson County in 2013 had 760,026 people with 20.6 percent, or 156,565, Black or African-American. Since 43.39% of African Americans in Kentucky live in Jefferson County, it is clear that any policy that strips assistance from Jefferson County has a racial impact.

While 11 percent of Whites in Louisville live in poverty in Louisville, 26% of African Americans in Louisville live in poverty. It is clear that any decision that has a negative impact on the distribution of intended benefits to low-income people in urban areas, particularly Louisville, has a disproportionate affect by race. This replicates itself in Lexington, which is part of the KY metered coverage.

Additionally, African Americans in Louisville live in extreme segregation and those areas have the oldest housing. This is housing most in need of energy efficient rehabilitation as the housing was built before 1980 which was when insulation first was required in the building code. So, both by poverty level and neighborhood, there is a disproportionate need for energy assistance by the African American population in Louisville. Again, any policy that affects that distribution negatively will have a disproportionate effect on African Americans in violation of Section VI of the Civil Rights Act.

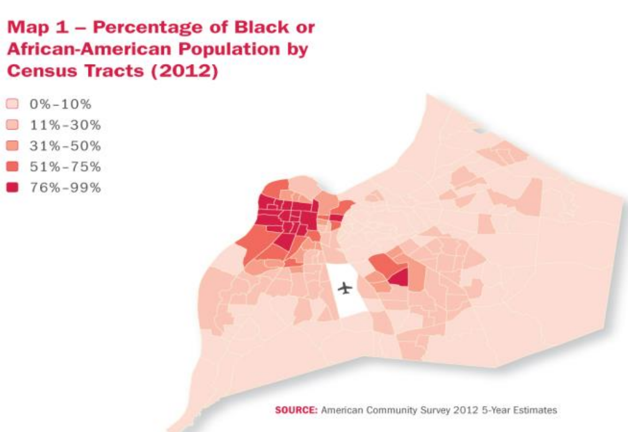
Most of the homes in Louisville, approximately 240,000, were built before the 1980s when insulation became a requirement in the local building code. About 75,000 of these were built before 1950 and may still have original single pane windows, lighting, and older appliances. Another 165,000 were built before 1979 and the requirement of insulation.





As can be seen in the maps above, the location of older homes coincides with the location of poverty in Louisville.

Additionally, the areas with older homes have high concentrations of African Americans, which means that African American households may experience the greatest negative impact by policies that do not support energy efficient improvements. Compare the map below with the maps above, which make this painfully obvious.



A. The amount of Crisis spent per household favors White areas of Kentucky.

The 2014-2015 policy stated that the cap for the Crisis component may not exceed

No more than the cost of delivery of 2 tons of coal
No more than the cost of delivery of 2 cords of wood
No more than the cost of delivery of 200 gallons of propane
No more than the cost of delivery of 200 gallons of fuel oil/kerosene and
No more than $250 to $400 (based on the availability of funding) for continuous billing fuels (electricity, natural gas).

However, the propane user purchased 200 gallons which currently would have cost $468 on March 18, 2015 using a national index. I understand that prices were higher in Kentucky. While the Crisis component maximum this last season was $400 maximum, no modifier of money limit was applied to non-metered heating sources, which are overwhelmingly in white dominated areas of the state.

The basis for the amount of assistance given to bulk purchasers is determined by the cost per unit, but for households with meters, the amount is arbitrary and a proposal to lessen benefits to households in metered areas is proposed with no counter proposal for bulk purchasers.

> Example: Bulk purchasers get whatever amount it costs on any given day to get 200 gallons of propane but the metered households get a flat rate although rates for metered energy have risen in LG&E and KY service areas due to environmental surcharge, storm damage and other costs approved to be passed to rate payers in the LGE-KU area. No diminution of benefits to bulk energy purchasers is proposed.

Therefore more money is spent per household in many predominantly White areas. This policy also excludes expending funds in metered areas.

B. The heating season in areas with metered utilities ends in mid-February for use of heating sources compared with six additional weeks of usage allowed in White areas of Kentucky.

Using my own bill to illustrate, I received a utility bill for usage from January 19 to February 18 with a due date of March 13, 2015. Therefore, my bill for use of heating sources from mid-January to mid-February would not be late until after March 13. Since the Crisis component typically ends March 31, this is the last bill I could get that would qualify for Crisis. Any other bill would be too late, although those bills would be for usage from February 19, 2015.

But anyone using bulk purchases can come in up to the last week of Crisis and get a full delivery which not only covers the heating season usage through March 31, but allows them to have heating sources in reserve.

This is an untenable difference and must be remedied. This policy alone means that money cannot be spent in Jefferson County resulting in returned funds, which then impact the next year's allocation

C. Those using bulk heating sources can self-assert their need but those in metered areas must get third party verification.

This is a shocking difference that basically shows the disdain of the state towards the urban population. While in rural areas with bulk fuel it is permissible for a self-declaration of need for assistance in Crisis is specifically allowed, in metered areas, a ponderous and long process of third party verification is required. Giving parity of self-declaration of need would also eliminate the long delay from usage of the utility and assistance in paying, extend the heating season to be the same between areas and allow for metered areas to expend funds appropriately.

Issue: Give localities the flexibility to use funds for energy efficient rehab.

Despite federal permission to use funds for energy efficiency improvements, the state has refused to allocate a significant portion of the funds for energy efficiency unit improvements. MHC has studied the impact of energy costs on stable housing and has consistently advocated for energy efficient improvement to residences as the most effective way to make energy costs affordable for low-income households.

Issue: Policies cause metered areas returning funds increases inequities to low-income persons in metered areas and getting lesser shares in the future.

Fifty percent of the crisis funds will be allocated "… based upon each agency's percentage of the statewide eligible population at or below **130%** of the poverty level and ***the remaining 50%***) ***will be based on the agency's crisis expenditures last year.*** " (emphasis added) . The history of LIHEAP distribution will show many years in which metered areas returned crisis money. Instead of studying the policies that led to such a consistent underutilization, the Cabinet has further punished the low-income people in metered areas by systematically diminishing the amount awarded for the crisis component of LIHEAP.

Since this has been an episodic problem, and the state agency has not taken any steps to remedy it, it must be deliberate. Additionally, administrative money is taken back as well. A study of past reallocation will show a deliberate use of policy to give an unfair allocation to predominantly White areas of Kentucky at the expense of metered areas.

Proposed Solutions:

MHC advocates for changes in policy at the state level which will allow low-income households in Jefferson County to fully benefit from energy assistance as intended by the federal program. The solutions are:

- review the disbursement to make sure that urban areas are not still being punished for failing to spend all monies in prior years (this was part of the disbursement formula);
- allow for self-declaration of need in metered areas in the Crisis component;
- use an fixed allocation for Crisis that reflect dollars spent per person in non-metered areas and make any increase equitable (or lower the bulk amounts initially to bring parity at the start of the program, and make any increases from that equitably) ;
- allow any unspent funds from the heating season to be held by the jurisdiction until the cooling season and/or be used for energy efficient modifications to residences;
- review the allocation to spend more funds on energy efficient rehab.