

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio Development Services Agency

Regulation/Package Title: Ohio Administrative Code Chapter 122:5-3 Percentage of Income Payment Plan (PIPP) Program

Rule Number(s): 122:5-3-02 Criteria for Customer Eligibility

Date: April 5, 2018

**Rule Type:**

<input type="checkbox"/> New	<input type="checkbox"/> 5-Year Review
<input checked="" type="checkbox"/> Amended	<input type="checkbox"/> Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

#### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

The Percentage of Income Payment Plan Plus (PIPP Plus) is a low-income customer assistance program whereby income-eligible customers of gas and electric utilities regulated by the Public Utilities Commission of Ohio (PUCO) can retain or restore service by paying a specified percentage (six percent for gas and six percent for electric if the home is heated by gas or 10 percent for the electric if the home is heated by electricity) of their household income each

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month to the gas and/or electric utility instead of the total amount of the current monthly utility bill.

Currently OAC 122:5-3-02 (b) (1) states "... a customer will be considered to meet the income eligibility requirement if either (a) the customer's household income for the three months prior to enrollment, if annualized, is one hundred fifty percent or less than federal poverty guideline for the corresponding household size, or (b) the customer's actual household income for the 12 months prior to enrollment is one hundred fifty percent or less than the federal poverty guideline for the corresponding household size.

ODSA proposes revising this language to state: A customer will be considered to meet the income eligibility requirement if the customer's documented household income for the 30 days prior to enrollment, if annualized, is one hundred fifty percent or less than the federal poverty guideline for the corresponding household size. If the customer's actual household income for the 30 days prior to enrollment does not reflect their annual income, documentation of their annual household income is required. The customer will be considered to meet the income eligibility requirement if the documented annual household income is one hundred fifty percent or less than the federal poverty guideline for the corresponding household size.

**Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Ohio Revised Code 4928.53

- 2. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**  
*If yes, please briefly explain the source and substance of the federal requirement.*

No

- 3. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

- 4. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

This program provides an opportunity for income-eligible Ohioans to maintain electric service at an affordable price in return for regular monthly payments. Utility service is vital to maintain and ensure the safety of communities. People who have regulated utility service are less likely to use kerosene heaters, ranges, or other potentially dangerous methods to keep their homes warm in the winter. These alternate methods of heating create fire hazards that can impact public funds for fire safety and cause the neighborhood to deteriorate.

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Additionally, the electric distribution utility (EDU) company benefits through the guaranteed payment of the difference between the amount the PIPP Plus participant must pay and the amount of the current monthly bill. When bills are paid, and service is maintained, the EDU's costs are lowered, and it maintains its customer base.

**5. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The amended rule should increase the number of PIPP Plus participants who successfully complete an application without the requirement to provide additional income documentation. Administratively, there should also be a decrease in application processing time.

**Development of the Regulation**

**6. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

On March 20, 2018, ODSA emailed a survey to 51 Local Delegate Agencies (LDA) that administer the PIPP program. LDAs include Community Action Agencies and other non-profits administering ODSA's energy assistance programs. The survey explained the proposed revision to the Ohio Administrative Code 122:5-3-02 criteria for customer eligibility. LDA energy assistance program administrators were asked to respond to the survey, and ODSA asked that the survey be made available to customers and other co-workers at the agencies. The survey read as follows:

*The Ohio Development Services Agency (ODSA) is in the process of revising the Percentage of Income Payment Plan Plus (PIPP Plus) Ohio Administrative Codes 122:5-3-02 criteria for customer eligibility. The ODSA is proposing the administrative code changes to simplify the application process for PIPP Plus customers while maintaining program integrity and compliance. As part of this process, ODSA would appreciate feedback on the proposed changes.*

***Please select your role:***

- ☐ *PIPP Plus*
- ☐ *PIPP Plus Program Administrator (i.e. Local Delegate Agency)*
- ☐ *Other:* \_\_\_\_\_

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**Proposed changes to the rule shown below in red:**  
**122:5-3-02 (B)(1)**

- (1) Compared to federal poverty guidelines. Any customer whose annual household income is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size shall be eligible to participate in the PIPP plus program. A customer will be considered to meet the income eligibility requirement if the customer's **documented** household income for the **thirty days** prior to enrollment, if annualized, is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size. If the customer's actual household income for the **thirty days** prior to enrollment is **not reflective of their annual income, documentation of their annual household income is required. The customer will then be considered to meet the income eligibility requirement if the documented annual household income** is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size.

**Summary of changes:**

*Customers would be required to provide documentation of their household's income for the previous 30 days, instead of previously required three-month household income. If the customer's 30-day household income is not reflective of their annual household income, then they may provide documentation of their annual household income for eligibility consideration.*

**7. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

ODSA received 640 responses from the survey. There were 75 responses from LDA energy assistance program administrators, 490 responses from program participants, and 75 responses from individuals who identified as "Other." The "other" responses included ODSA partner agencies, LDA intake workers, and other LDA staff.

Initially, respondents did not recognize that this PIPP amended rule change would also apply to ODSA's related Energy Assistance Programs such as the Home Energy Assistance Program (HEAP), HEAP Winter Crisis and HEAP Summer Crisis. Some early responses cautioned against having different income documentation requirements for these related programs. In response to this feedback, ODSA reissued the survey with a clarification that stated:

*"The Ohio Development Services Agency (ODSA) would like to provide clarification regarding the proposed revision to the Percentage of Income Payment Plan Plus (PIPP Plus) Ohio Administrative Codes 122:5-3-02 criteria for customer eligibility. The proposed 30-day household income requirement would also apply to the Home Energy Assistance Program (HEAP), Summer Crisis Program (SCP), and Winter Crisis Program (WCP) to keep program requirements consistent.*

*If this clarification changes your opinion on the proposed rule change, please feel free to re-submit your feedback. The deadline to submit feedback forms has been extended to **Friday**,*

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**March 23rd, 2018.** Completed forms should be emailed to [Tiffany.Starr@development.ohio.gov](mailto:Tiffany.Starr@development.ohio.gov)."

This clarification addressed most of the concerns raised by the respondents. Some respondents expressed concerns that if 30 days of income is not reflective of their annual income, that it might be burdensome for the customer to provide one year of income documentation. It's important to note that the current PIPP rule allows for 90 days of income to be annualized, or 12 months of income to be provided. ODSA is not proposing to change the 12-month language in the PIPP rule.

Most customers responding to the survey were supportive of the amended rule change. Many expressed that this would simplify the application process and be more reflective of a customer's actual income. Currently, the customer's previous 30 days of income is what is used to determine the household's PIPP payment amount, so this amended rule better aligns with that process.

The survey provided important feedback from the various respondents, however, ODSA did not make any adjustments to the proposed rule change. Training for the LDAs and customer education will be a priority for ODSA once the rule change is effective.

**8. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

As this rule applies to program administration by Local Delegate Agencies. There was no scientific data used in evaluating this change.

**9. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

This is the only rule specific to income eligibility criteria for the PIPP Program. The program must have rules related to income and who is eligible to participate in the program. ODSA is streamlining the application process to benefit both the program administrators and the customers.

**10. Did the Agency specifically consider a performance-based regulation? Please explain.**  
*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

A performance-based regulation is not appropriate in this instance. The rules must be designed to ensure compliance with the PIPP Plus program.

**11. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

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The original regulation for the PIPP Plus program was implemented in 1983 and administered by the Public Utilities Commission of Ohio. In 1999 the Ohio legislature in Senate Bill 3, moved the administration of the electric PIPP Plus program to the Development Services Agency. Since that time the PUCO has administered the gas PIPP Plus program rules (Chapter 4901:1-18) and ODSA administered the electric PIPP Plus rules. ODSA worked with the PUCO to ensure that the two sets of rules aligned to afford more consistency to the programs. This is a state program with no federal counterpart rules. Lastly, ODSA administers PIPP Plus and this is the only rule related to income eligibility.

**12. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

- For the Local Delegate Agencies
  - ODSA staff will provide written communication regarding the revised income documentation requirements.
  - ODSA will revise the Energy Assistance Guidelines to reflect the revised income documentation requirements.
  - ODSA will provide training on the revised income documentation requirements.
- For the PIPP Plus participants
  - ODSA will update the application, brochures and letters to participants regarding the income documentation needed to successfully apply for PIPP Plus.

**Adverse Impact to Business**

**13. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

This is a program administrative rule change. There will be no monetary cost impact on the business community. There are 51 Local Delegate Agencies that currently administer the PIPP program.

Participants and providers will have to learn the new rule and implement it accordingly.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The Local Delegate Agencies will be required to attend additional training on the new rules. This training will be given by ODSA staff and will consist of a one-hour webinar.

ODSA will also develop a guidance document for the Local Delegate Agencies on this change and will answer any questions on implementation of the new rule.

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**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

ODSA updates the Energy Assistance Guidelines, participant letters, brochures, the Energy Assistance application annually, and provides training to the Local Delegate Agencies on any changes pertaining to the energy assistance programs. The one-hour webinar must be attended by appropriate Local Delegate Agency staff. The webinar will cover additional items as well and is not solely for this rule change.

**14. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The amount of time to train the Local Delegate Agencies on this rule change will be minimal. The regulatory intent is to streamline the application process to better benefit the customer and lessen administrative time for the Local Delegate Agencies.

**Regulatory Flexibility**

**15. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. This administrative change will have no effect on the small business community. The change only impacts program participants and Local Delegate Agencies.

**16. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

N/A

**17. What resources are available to assist small businesses with compliance of the regulation?**

ODSA will meet with and provide educational materials on the rule changes to agencies that serve the same customers as ODSA.