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## LOW-INCOME CLIMATE CONSUMER RELIEF: FUNDS NEEDED FOR STATE ADMINISTRATION

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The House-passed climate legislation (H.R. 2454), which would place a cap on emissions of greenhouse gases to combat global warming, includes very important consumer relief provisions to help ensure that the legislation does not increase hardship by making poor families poorer or pushing more people into poverty. Under the House bill, 15 percent of the allowance value is dedicated to protecting low-income Americans from increased costs they will face for energy and energy-intensive goods and services under the bill.<sup>1</sup>

The centerpiece of the House low-income consumer relief is a highly efficient energy refund program that states would administer for the federal government and that would build on existing eligibility and benefit delivery mechanisms in other federal low-income programs.<sup>2</sup> Unfortunately, however, the House bill contains a large gap in this area — it does not provide any administrative funding for states to operate this program.

This is a major problem that likely would render the program inoperable. It also would open the bill to the charge that it imposes an unfunded mandate on states. As the Senate considers climate legislation, it should retain the House's approach to low-income consumer relief but should provide, as mandatory funding, administrative funds for states to operate the program. Such funding likely would cost less than one half of one percent of the allowance value and, as explained below, could easily be provided without any increase in the overall cost of the low-income consumer provisions of the House bill.

### The EBT Energy Refund Program is Highly Efficient

Under the House bill, households with income below 150 percent of the poverty line would qualify for a monthly “refund” that would be administered by state human services agencies and provided on an electronic benefit transfer (EBT) card, which is a debit card used in all states to deliver food stamp

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<sup>1</sup> This low-income assistance is in addition to relief that would be provided to consumers, regardless of income, by provisions in the bill that give free emissions allowances to retail electric and gas companies (called local distribution companies, or LDCs) for the purpose of providing their customers with relief on their utility bills.

<sup>2</sup> The bill also uses a portion of the proceeds from auctioning 15 percent of the allowances to finance an expansion in the now-very-small component of the Earned Income Tax Credit (EITC) for low-income workers who do not live with children, the low-income group most likely to be missed by the benefit provided through the electronic benefit transfer systems that state human services agencies operate. The EITC component of the low-income consumer relief would be administered by the Internal Revenue Service.

benefits and in most states to deliver Temporary Assistance for Needy Families (TANF) and other benefits as well.<sup>3</sup> The benefit amount would be based on the estimated average loss in purchasing power resulting from the effects of the emissions cap on low-income households, after taking into account the relief that these households would receive from the allowances given to utility companies to hold down utility bills.<sup>4</sup>

The House approach is highly efficient because it uses existing eligibility and delivery mechanisms. Households receiving food stamps (now known as the Supplemental Nutrition Assistance Program, or SNAP), as well as individuals who receive a low-income subsidy in the Medicare Part D prescription drug program, would be enrolled in the program automatically, and streamlined procedures would be put in place for Supplemental Security Income (SSI) recipients as well. The bill also authorizes the Secretary of Health and Human Services to develop regulations that allow families containing people who participate in the Medicaid or Children's Health Insurance Program (CHIP) programs to be enrolled in the energy refund program through a streamlined process in which the state simply uses income and other household information from Medicaid or CHIP eligibility determinations to determine eligibility for the energy refund. Households that do not participate in these programs also could apply for the energy refund at a state human service agency, but states will be able to enroll the vast majority of eligible families into the program without collecting any new information or paperwork from the family. The Congressional Budget Office analysis and Census data on eligible households suggest that 75 percent to 80 percent of eligible households would participate.

All states already operate EBT debit card systems. Building on these systems to deliver an energy refund — rather than setting up a new program with a new application process that low-income households must complete and a large new bureaucracy — would be a highly efficient way to reach low-income households and provide this relief.<sup>5</sup>

## **States will Nonetheless Need Mandatory Administrative Funding**

While the EBT approach should be very efficient, states will nonetheless incur some significant upfront costs in setting up this new program on behalf of the federal government; for example, they will need to make computer modifications, amend their EBT contracts, and potentially hire additional staff. There also will be ongoing operating costs, such as in merging data from food stamps, the Medicare low-income subsidy program, and Medicaid on an ongoing basis to avoid duplicate energy refunds. With the federal government on the hook for the full cost of the energy refund, it is essential that states have the necessary funding to administer the program cleanly and accurately.

There may have been an assumption in the House that such administrative funds would be appropriated as a discretionary spending item. But no other major federal low-income benefit program that states are directed to administer operates in such a fashion. In virtually every other such program, the federal government pays a specified percentage of the costs that states incur in operating the program in accordance with federal rules and standards, and this funding is provided as mandatory

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<sup>3</sup> Those below 150 percent of the poverty line would qualify for a full energy refund. The refund would phase out between 150 percent and about 160 percent of the poverty line.

<sup>4</sup> For more information see CBPP, *How Low-Income Consumers Fare in the House Climate Bill*, July 8, 2009, available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2865>.

<sup>5</sup> The bill also provides for direct deposit into households' bank accounts, which is the least expensive way of delivering benefits, but many low-income households do not have bank accounts, so an EBT approach also is necessary.

funding that does not depend on the vagaries of the appropriations process.

Indeed, this type of *mandatory* matching funding is the existing structure for the major federal benefit programs that would serve as the foundation for the new energy refund program: food stamps and Medicaid. In these programs, states receive a prescribed federal “matching rate;” in the case of food stamps and Medicaid, states receive reimbursement from the federal government for 50 percent of the costs they incur in operating these programs.<sup>6</sup> A similar approach for the energy refund program would ensure that the EBT energy refund program would be administered in conjunction with these other programs. It also would give states an incentive to implement the energy refund program efficiently, since they would bear a portion of the new administrative costs themselves.

Moreover, simply relegating the provision of this funding to the annual appropriations bills would not work well and could jeopardize the effective implementation and functioning of the energy refund program. Facing tight budget constraints in some years, the Appropriations Committee might not fund (or not fund adequately) the state costs in operating the energy refund program. That could push states to opt out of participating in the program altogether or to do an inadequate job of running it.

We would counsel against trying to provide the state administrative funding through the appropriations bills not only because the Appropriations Committees — faced with other budget pressures — might under-fund the administration of the energy refunds, but also because the Appropriations Committees would encounter considerable difficulty in determining in the early years what amount of administrative funding to provide — both in the aggregate and for each state — and because providing this funding through appropriations bills would make it difficult for states to plan multi-year expenditures for the program such as new IT systems. An open-ended matching structure like that used for food stamp and Medicaid administrative costs is a much more sound and appropriate structure for this.

For the new energy refund program, we recommend a higher matching rate than 50 percent, at least in the early years of the program when states will incur start-up costs. Congress has established higher than 50 percent match rates in other state-administered federal programs for activities that it deems especially important. For example, in the Child Support Enforcement Program, states receive a 66 percent match for most administrative activities. (In the past states received a 90 percent match rate for certain Child Support computer system costs.) In the foster care program, states receive a 75 percent match for administrative costs related to training staff and prospective foster or adoptive parents. And in Medicaid, higher federal matching rates are provided for a number of activities, including services provided by skilled medical professionals and the development and operation of certain computer management and claims processing systems.

Moreover, given the difficulties that state budgets will be facing for the next several years, states may be reluctant to take on a new program without a higher matching rate. We recommend providing a 90 percent matching rate for the first three years and reducing the matching rate to something like 75 percent thereafter.

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<sup>6</sup> On average, the food stamp administrative match rate is modestly less than 50 percent in many states because of a federal cut enacted in 1998. That reduction is a fixed amount, however, and the match rate for any additional (or marginal) administrative expenses that states incur is 50 percent.

## A Minor Modification to the House Bill Would Free Up Funding for State Administrative Costs Within the 15 percent of Allowance Value

The House Ways and Means Committee had to act on the low-income component of the House climate bill on an extremely tight timeframe as the House was finalizing the legislation. The language for one of its modifications to the Energy and Commerce Committee's low-income provisions did not come out precisely as the Ways and Means Committee planned and resulted in some unintended cost. Fixing this provision would produce enough resources (within the 15 percent of allowance value that the House set aside for low-income consumer relief) to fund the mandatory administrative matching funds to states that we recommend.<sup>7</sup>

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<sup>7</sup>The House bill authorizes the HHS Secretary to develop a streamlined process for enrolling low-income households receiving Medicaid and CHIP in the new energy refund program. The Ways and Means Committee intended the streamlined procedures to provide access to the EBT-based energy refund if a family receiving Medicaid or CHIP has gross income below 150 percent of the poverty line, the overall eligibility limit for the EBT-based refund. The Congressional Budget Office read the House language, however, as allowing families receiving Medicaid or CHIP to qualify if they have income *net of disregards* (i.e., net of deductions from income) that is below 150 percent of the poverty line. Because of the way income disregards operate in the Medicaid and CHIP programs in some states, a substantial number of families have income after disregards that is below 150 percent of the poverty line but gross income higher than that. CBO scored costs for providing the EBT energy refund to these families with gross incomes above 150 percent of the poverty line.

This can easily be fixed with language stating that the streamlined procedures apply to families receiving Medicaid or CHIP programs that have gross incomes below 150 percent of the poverty line. The resources made available from such a change will cover the state administrative costs of administering the climate refund program, as discussed here (as well as the costs of providing modest mandatory funds to the Low-Income Home Energy Assistance Program — which we also recommend — to help fill remaining gaps for poor families that experience considerably higher-than-average increases in energy costs under the legislation — e.g., because they live in old, very poorly insulated homes — and to reach some poor households that would otherwise “fall through the cracks.” For more detail on this LIHEAP recommendation, see Jennifer Kefer and Robert Greenstein, “Adding Funding to the House Climate Bill for Low-Income Home Energy Assistance Would Help Poor Families Facing Particularly Large Increases in Energy Costs” July 8, 2009, available at <http://www.cbpp.org/cms/index.cfm?fa=view&id=2866>.)