

## NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule and Notice of Extension of Emergency Rule**

**What are we proposing?** To implement the Mayor's priority of moving families with children from shelter into stable housing, the New York City Human Resources Administration (HRA), working jointly with the New York City Department of Homeless Services (DHS), proposes to amend Chapter 7 of Title 68 of the Rules of the City of New York by:

(1) amending certain provisions in Subchapter A relating to the Living in Communities (LINC) III Rental Assistance Program; and

(2) adding a new Subchapter C to continue implementation of the LINC Family and Friend Reunification (LINC VI) Rental Assistance Program, which was established by emergency rule on March 13, 2015.

**When and where is the hearing?** HRA will hold a public hearing on the proposed rule. The public hearing will take place at 9:00 A.M. on June 4, 2015. The hearing will be held at Spector Hall, 22 Reade Street, First Floor, in downtown Manhattan.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to HRA through the NYC rules website: <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [constituentsaffairs@hra.nyc.gov](mailto:constituentsaffairs@hra.nyc.gov). Please include "LINC III Amendments and LINC VI Proposed Final Rule" in the subject line of your email.

- **Mail.** You can mail comments to:

New York City Human Resources Administration  
The Office of Constituent Services  
150 Greenwich Street, 31<sup>st</sup> Floor  
New York, NY 10007

- **Fax.** You can fax comments to HRA at 212-331-5998. Please include "LINC Proposed Rule" on the cover page of your fax.
- **Speaking at the hearing.** You can speak at the public hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak at the beginning of the hearing. You can speak for up to two minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is June 4, 2015.

**What if I need assistance to participate in the hearing?** If you need an interpreter or if you need a reasonable accommodation for a disability at the hearing, you must tell us by May 28, 2015. You can call us at 929-221-5188, send a fax to 917-639-0296, or contact us by mail at:

LINC Rental Assistance Programs  
150 Greenwich Street, 36<sup>th</sup> Floor  
New York, NY 10007  
Attention: Public Hearing

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments made at the public hearing concerning the proposed rule will be available to the public on HRA's website.

**What authorizes HRA to make this rule?** Sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law, sections 603 and 1043 of the New York City Charter, and section 352.6 of Title 18 of the New York Codes, Rules and Regulations authorize HRA to make this proposed rule. This proposed rule was not included in HRA's most recent regulatory agenda because it was not contemplated when HRA published the agenda.

**Where can I find HRA's rules?** HRA's rules are in Title 68 of the Rules of the City of New York.

**What rules govern the rulemaking process?** HRA must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.<sup>1</sup>

### **Notice of Extension of Emergency Rule**

Notice is further given, pursuant to New York City Charter Section 1043(i)(2), that the emergency rule establishing the Living in Communities Family and Friend Reunification (LINC VI) Rental Assistance Program, issued on March 13, 2015, is hereby extended an additional sixty days, to July 11, 2015. The additional sixty days are needed for HRA to adopt a final rule concerning the LINC VI program after completing the public comment and hearing process set forth in New York City Charter Section 1043(e).

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<sup>1</sup> In following the process set forth in New York City Charter § 1043, HRA does not waive its right to take the position that any future action, requirement or procedure, or any part thereof, does not meet the definition of a rule under New York City Charter § 1041 and is not subject to this process.

## **Statement of Basis and Purpose of Proposed Rule**

In order to implement the Mayor's priority of moving households into stable housing, and in a joint effort with the Commissioner of the New York City Department of Homeless Services (DHS), the Commissioner of the New York City Human Resources Administration (HRA) has established six Living in Communities (LINC) Rental Assistance Programs. The LINC I, II, III and VI programs are specifically targeted to families with children residing in shelters operated by or on behalf of DHS or HRA, while the LINC IV and V programs are targeted to single adults and adult families residing in DHS shelter, on the streets, or at risk of entry into DHS shelter.

HRA now proposes to amend Chapter 7 of Title 68 of the Rules of the City of New York by: (1) amending certain provisions concerning the LINC III Rental Assistance Program; and (2) adding a new subchapter C continuing the LINC VI Family and Friend Reunification Rental Assistance Program, which was established by emergency rule issued on March 13, 2015.

### **Amendments to Certain Provisions Concerning the LINC III Program**

The LINC III Rental Assistance Program was established by emergency rule in September 2014, and a final rule concerning the program was adopted in December 2014 and became effective in January 2015.

The LINC III program provides rental assistance to families with children in HRA and DHS shelter whom HRA has certified as victims of domestic violence. Under current initial and continued eligibility requirements, a household must be in receipt of Public Assistance and include a child in order to initially receive and continue to receive LINC III rental assistance.

The proposed rule would authorize HRA to:

- Continue to pay rental assistance on behalf of survivors of domestic violence even if they secure employment and become ineligible for Public Assistance, or if their household no longer includes a child. These amendments will prevent survivors of domestic violence and their families from re-entering shelter.
- Under some circumstances, permit members of LINC III households who are not on Public Assistance to contribute a portion of their income to rents higher than they would otherwise be permitted under the current rule. This flexibility would be similar to that provided by the existing Family Eviction Prevention Supplement program administered by New York State. This amendment will allow more families to be able to relocate from shelter to permanent housing.

Finally, this proposed rule includes a number of technical amendments to the provisions relating to the LINC III program.

## **The LINC VI Family and Friend Reunification Rental Assistance Program**

The LINC VI Family and Friend Reunification Rental Assistance Program, established by emergency rule in March 2015, helps relocate families currently residing in shelter to housing with friends and relatives. Over a twelve-month period, the program will assist approximately 500 families with children. The program is available on a first-come first-served basis to families in shelter for at least 90 consecutive days who can identify a household consisting of relatives or friends willing to host them; rental assistance will be provided on behalf of LINC VI program participants to these “host families.” The program will be subject to a review of annual funding.

The proposed Subchapter C pertaining to the LINC VI program sets forth:

- definitions applicable to the subchapter;
- a general description of responsibility for program administration and eligibility determinations;
- eligibility and renewal requirements;
- a description of how the monthly rental assistance amounts are calculated;
- review and appeal procedures; and
- additional provisions, including a description of certain program benefits as well as requirements for program participants and participating host families.

HRA’s authority for this rule may be found in sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law, sections 603 and 1043 of the New York City Charter, and section 352.6 of Title 18 of the New York Codes, Rules and Regulations.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined. Deleted text is [bracketed].

Section 1. Section 7-05 of title 68 of the Rules of the City of New York is amended to read as follows:

### **§ 7-05 The LINC III Rental Assistance Program.**

(a) Initial [and Continued] Eligibility and Certification for the LINC III Program.

(1) To be eligible for the LINC III Program, a household must meet the following eligibility requirements:

(A) The household must be in receipt of Public Assistance;

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) The household must, at the time of certification and up to the time when the lease for the housing to which LINC III rental assistance will be applied is executed, include at least one member who:

(i) [(A)] either resides in a DHS shelter and is eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations, or [(B)] resides in an HRA shelter; and

(ii) is currently eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations as a victim of domestic violence within the meaning of Section 452.2(g) of Title 18 of the New York Codes, Rules and Regulations and Section 459-a of the New York Social Services Law; and

(D) The household must, at the time of certification and up to the time of lease signing, be in compliance with Public Assistance requirements.

(2) The number of eligible households that will be certified to receive LINC III rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-09 of this chapter, upon finding that a household has met the eligibility requirements set forth in paragraph (1) of this subdivision and that appropriate funding is available to provide LINC III rental assistance to such household, HRA and/or DHS shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of paragraph (1) of this subdivision. Priority will be given to families who have resided in a DHS Shelter or an HRA Shelter for the longest consecutive periods, families currently residing in an HRA Shelter who have reached the 180-day time limit under New York Social Services Law § 459-b and would otherwise be discharged to a DHS Shelter, and families who are currently residing in a DHS Shelter due to lack of capacity in HRA Shelters or who have been discharged from an HRA Shelter to a DHS Shelter.

(3) At the time of certification, and prior to lease signing, HRA will calculate, pursuant to subdivision (b) of section 7-06 of this chapter, the household's maximum monthly rent amount, the maximum monthly LINC III rental assistance amount and any contributions required to be made by household members not eligible for Public Assistance. The LINC III rental assistance amount and the amounts of any required contributions are subject to change during the household's participation in the LINC III program as set forth in [paragraph (8)] paragraph (3) and subparagraph (G) of paragraph (2) of subdivision (b) of section 7-06 of this chapter.

(4) [A household's continued receipt of LINC III rental assistance is conditioned on the household continuing to meet the requirements of subparagraphs (A) and (B) of paragraph (1) of this subdivision.

(5) In no event shall HRA certify for LINC III rental assistance a household that includes the perpetrator of the domestic violence that resulted in the determination of eligibility for HRA shelter described in subparagraph (C) of paragraph (1) of subdivision (a) of this section.

(b) Continued Eligibility.

A household's continued receipt of LINC III rental assistance is conditioned on the household continuing to meet the requirements of subparagraph (A) of paragraph (1) of this subdivision, unless the household has become ineligible for Public Assistance as a result of increased income and such household's total gross income does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services.

(c) Renewals after the First Year.

(1) Subject to the availability of funding, a household in receipt of LINC III rental assistance will receive up to four one-year renewals of such assistance if it meets the following continued eligibility requirements:

(A) [The] All members of the household who are eligible for Public Assistance must be in receipt of Public Assistance;

(B) [The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) [Where such activities are made available to the household, at least one member of the household must be participating in ongoing case management activities developed in conjunction with a case manager or employment vendor designated by DHS or HRA designed to assist the household member in obtaining, maintaining and/or enhancing employment or to secure any benefits for which such member or household is eligible;

[(D)](C) Members of the household receiving Public Assistance must be in compliance with any applicable requirements related to the receipt of such Public Assistance;

[(E)](D) The household's total gross income must not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services; and

[(F)](E) The household must provide prompt notice to HRA of any rent arrears that have accrued so that they may be addressed.

(2) HRA will determine a household's eligibility for renewal of LINC III rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Prior to the commencement of each one-year renewal period, HRA will recalculate, pursuant to subdivision (b) of section 7-06 of this chapter, the household's maximum monthly rent amount, the maximum monthly rental assistance amount and any contributions required to be made by household members not eligible for Public Assistance. This recalculation is in addition to any recalculations required by [paragraph (8)] subparagraph (G) of paragraph (2) of subdivision (b) of section 7-06 of this chapter. Prior to the commencement of the renewal period, HRA will review whether a household is meeting [all of] the eligibility requirements set forth in paragraph (1) of this subdivision and will assist the household with maintaining eligibility as appropriate. If the household's monthly program participant contribution and rental assistance amount are calculated under paragraph (3) of subdivision (b) of section 7-06 of this chapter, the monthly program participant contribution and monthly rental assistance amount will not change during the one-year renewal period, regardless of changes in household composition or income.

(3) HRA in its discretion may waive any of the requirements set forth in paragraph (1) of this subdivision on a case-by-case basis if the household's failure to meet the requirement was due to circumstances beyond the household's control, or where non-renewal is likely to result in the household's entry into shelter.

§ 2. Subdivision (b) of section 7-06 of title 68 of the Rules of the City of New York is amended to read as follows:

(b) LINC III Rental Assistance Program.

(1) Except as provided below, the maximum LINC III rental assistance amount and the maximum rent towards which LINC III rental assistance may be applied shall not exceed the amounts set forth in the table below, except that HRA may make exceptions to the maximum rent amounts on a case-by-case basis if the rent: (i) is reasonable in relation to current rents for comparable units in the private unassisted market; (ii) is not in excess of current rents for the owner's comparable non-luxury unassisted units; and (iii) does not exceed the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit. If HRA makes such an exception, HRA shall pay the difference between the approved rent and the maximum rent amount set forth in the table below.

Household Size	1	2	3	4	5	6	7	8
Maximum Rent	\$914	\$1,028	\$1,200	\$1,257	\$1,428	\$1,542	\$1,599	\$1,714
Maximum Rental Assistance	\$637	\$745	\$800	\$807	\$927	\$1,018	\$1,053	\$1,168

(2) Except as provided in paragraph (3) of this subdivision, the household's monthly contribution and LINC III rental assistance amount shall be calculated as follows:

(A) Except as provided in [paragraph (4) of this subdivision] subparagraph (C) of this paragraph, and provided the household remains eligible for LINC III rental assistance, the LINC III rental assistance amount shall be the household's actual rent less the sum of [(A)] (i) any contributions required to be made in accordance with the provisions of [paragraph (6) of this subdivision] subparagraph (E) of this paragraph and [(B)] (ii) the standard Public Assistance shelter allowance as set forth in Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations for the number of members in the household active for Public Assistance, provided that the LINC III rental assistance amount shall not exceed the maximum rental assistance amount for the household size as set forth in paragraph (1) of this subdivision. If the actual rent exceeds the sum of the LINC III rental assistance amount and the standard shelter allowance, the household shall pay directly to the landlord the amount that the actual rent exceeds such sum.

[(3)](B) If a household in receipt of LINC III rental assistance receives a Public Assistance shelter allowance less than the standard Public Assistance shelter allowance set forth in Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations, the household shall pay directly to the landlord the difference between the standard Public Assistance shelter amount and the Public Assistance shelter amount that the household receives.

[(4)](C) If the household's Public Assistance shelter allowance is reduced pursuant to New York Social Services Law § 342, the LINC III rental assistance

amount will be reduced using the same rule applied to reduce the Public Assistance benefits. The household shall pay any reduction amounts directly to the landlord.

[(5)](D) If a household is in receipt of the LINC III rental assistance amount and such household's monthly rent obligation increases above the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit after the household's second year in the LINC III rental assistance program, the household shall pay the amount of the rent increase directly to the landlord. In the event of such a rent increase, HRA may make exceptions to the maximum rental assistance amount on a case-by-case basis.

[(6)](E) A member of the household who is not in receipt of Public Assistance and who receives income, earned or unearned, must contribute a pro rata share of the rent or thirty percent of his or her gross income, whichever is less, towards rent. If a member of the household is not currently in receipt of Public Assistance, but does not acknowledge receipt of income, earned or unearned, such household member must apply for Public Assistance before the household can be certified for LINC III rental assistance. If such household member is rejected as ineligible, such household member shall be subject to the [program participant] contribution requirement set forth in this [subdivision] subparagraph. Nothing in this paragraph shall be construed to require a person ineligible for Public Assistance on the basis of his or her immigration status to apply for Public Assistance. An individual contributing a pro rata share of rent or thirty percent of his or her gross income shall not be counted for purposes of determining the LINC III maximum rental assistance amount as set forth in paragraph (1) of this subdivision [but may be counted for purposes of determining], provided that the household's maximum rent [as set forth in such paragraph, provided that the maximum rent] shall [not exceed] be equal to the sum of the maximum rent for the household when such person is not counted and such person's required contribution, and provided further that the maximum rent shall not exceed the maximum rent for the household if such person were counted under paragraph (1) of this subdivision. Such individual's contribution shall be deducted from the household's actual rent for the purposes of determining the LINC III rental assistance amount as set forth in [paragraph (2) of this subdivision] subparagraph (A) of this paragraph.

[(7)](F) When an individual ineligible for Public Assistance on the basis of his or her immigration status has income that must be taken into consideration in calculating Public Assistance pursuant to New York Social Services Law § 131-a, such individual shall be included in the household for purposes of determining the maximum rent as set forth in paragraph (1) of this subdivision. Such individual shall not be included in the household for purposes of determining the maximum rental assistance amount as set forth in paragraph (1) of this subdivision and will not be subject to the [program participant] contribution requirement as set forth in [paragraph (6) of this subdivision] subparagraph (E) of this paragraph.

[(8)](G) A LINC III rental assistance amount and any contributions required by [paragraph (6) of this subdivision] subparagraph (E) of this paragraph shall be increased or reduced as a result of changes in a household's income, composition, or rent, provided that such increased or decreased rental

assistance amount and contributions are calculated in accordance with the provisions of this subdivision. LINC III recipients shall promptly inform HRA of changes in income, household composition, or rent that may require an increase or decrease in the LINC III rental assistance amount and/or any required contributions. LINC III recipients will receive a notice from the City of New York of any change in their LINC III rental assistance amount and required contributions.

(3) If a household in receipt of LINC III rental assistance has become ineligible for Public Assistance as a result of increased income or no longer includes a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations, a program participant contribution of thirty percent of the household's total gross income will be required and will be paid by the household directly to the landlord each month. The program participant contribution will be deducted from the maximum rent amount set forth in the table in paragraph (1) of this subdivision to determine the monthly rental assistance amount. HRA shall pay the monthly rental assistance amount directly to the landlord each month for so long as the program participant's household remains eligible and funding for the program remains available. In addition to the program participant contribution, the program participant shall be responsible for any increases in the rent permitted under paragraph (2) of subdivision (l) of section 7-09 of this chapter. The household's monthly program participant contribution and rental assistance amount will not change during the remainder of the household's current year in the program, regardless of changes in household composition or income and shall continue to be calculated in accordance with this paragraph for so long as the household remains eligible for the program even if the household later becomes eligible for Public Assistance or again includes a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations.

§ 3. The opening paragraph of paragraph (1) of subdivision (e) of section 7-08 of title 68 of the Rules of the City of New York is amended to read as follows:

(1) If a LINC I or LINC III program participant requests an administrative appeal of a determination by HRA that rental assistance payments issued under section 7-03 or 7-05 of this chapter are to be reduced, restricted, suspended or discontinued, or that the program participant's household is not eligible for renewal pursuant to subdivision (b) of section 7-03 or subdivision [(b)] (c) of section 7-05 of this chapter, such program participant shall have the right to continued receipt of LINC I or LINC III rental assistance payments at the rental assistance amount in effect at the time of the determination until the hearing decision is issued pursuant to subdivision (l) of this section, provided that:

§ 4. Chapter 7 of Title 68 of the Rules of the City of New York is amended by adding a new subchapter C, entitled "Living in Communities Family and Friend Reunification (LINC VI) Rental Assistance Program" that reads as follows:

**Subchapter C: Living in Communities Family and Friend Reunification (LINC VI) Rental Assistance Program**

**§ 7-18 Definitions.**

For the purposes of this subchapter, the following terms shall have the following meanings:

(a) The "household" means the individuals who have applied for or are in receipt of LINC VI rental assistance pursuant to this subchapter, regardless of eligibility for public assistance.

(b) The “host family” means all individuals, other than the household, who are residing or who intend to reside in the residence towards which the LINC VI rental assistance payments will be applied. A host family shall include the primary occupant and may consist of a single individual.

(c) The “Living in Communities Family and Friend Reunification Rental Assistance Program” or “LINC VI Rental Assistance Program” means the rental assistance program established pursuant to this subchapter.

(d) A “program participant” means a household member who has entered into an agreement for housing to which LINC VI rental assistance payments have been or are being applied.

(e) A “primary occupant” is the person who has the primary responsibility for payment of the monthly rent for the residence towards which the LINC VI rental assistance payments will be applied or the owner of such residence. The primary occupant must reside in such residence.

### **§ 7-19 Administration of the LINC VI Rental Assistance Program.**

HRA shall administer the LINC VI Rental Assistance Program, except that HRA shall make in consultation with DHS initial eligibility determinations pursuant to paragraph (1) of subdivision (a) of section 7-20 of this chapter for households residing in a DHS Shelter.

### **§ 7-20 Initial Eligibility and Renewals.**

(a) Initial Eligibility for the LINC VI Rental Assistance Program.

(1) To be eligible for an initial year of LINC VI rental assistance, a household must meet the following eligibility requirements:

(A) The household must include at least one member who receives Public Assistance, and all household members who are eligible for Public Assistance must receive such benefits;

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) The household must include at least one member who: (i) is eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations or as determined by HRA pursuant to Sections 452.2(g) and 452.9 of Title 18 of the New York Codes, Rules and Regulations; and (ii) currently resides in the City shelter system;

(D) The household member described in subparagraph (C) of paragraph (1) of this subdivision must have resided in the City shelter system for at least ninety consecutive days, excluding gaps of up to three calendar days;

(E) The household must have identified a host family, consisting of relatives or friends of the household who live in the City of New York, that has agreed to permit the household to reside in its residence and to receive a monthly rent payment from the household that does not exceed the applicable maximum rent set forth in the table in subdivision (a) of section 7-21 of this chapter;

(F) The host family and the host family’s residence must meet the requirements of subdivision (j) of section 7-24 of this chapter.

(G) The household must have total gross income that does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services.

(2) The number of eligible households that can be approved to receive LINC VI rental assistance will be limited by the amount of available funding. Applications must be submitted on a form and in a format established by HRA in consultation with DHS.

(b) Renewals after the First Year.

(1) Subject to the availability of funding, a household in receipt of LINC VI rental assistance will receive four one-year renewals of such assistance if it meets the following continued eligibility requirements:

(A) The household's total gross income does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services;

(B) Where such activities are made available to the household, at least one member of the household must be continually engaged in ongoing case management activities designed to assist the household member in obtaining, maintaining and/or enhancing employment or to secure any benefits for which such member or household is eligible; and

(C) All members of the household eligible for Public Assistance must receive Public Assistance.

(2) HRA will determine a household's eligibility for renewal of LINC VI rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Before the start of each one-year renewal, HRA will recalculate the household's monthly rental assistance amount pursuant to section 7-21 of this chapter. Except as provided in section 7-22 of this chapter, the monthly rental assistance amount will not change during the one-year renewal period.

(3) HRA in its discretion may waive any of the requirements set forth in paragraph (1) of this subdivision on a case-by-case basis if the household's failure to meet the requirement was due to circumstances beyond the household's control, or where non-renewal is likely to result in the household's entry into shelter.

**§ 7-21 Maximum Monthly Rent Obligations and Calculation of Rental Assistance Amounts.**

(a) Maximum Monthly Rent.

(1) The household's monthly rent shall not exceed the amounts set forth in the table below:

<u>Household Size</u>	<u>1 - 2</u>	<u>3 - 4</u>	<u>5 or more</u>
<u>Maximum Rent</u>	<u>\$650</u>	<u>\$750</u>	<u>\$1,000</u>

(2) Where the primary occupant receives Public Assistance, the household's monthly rent cannot exceed the difference between the primary occupant's payment obligation for the residence and the primary occupant's shelter allowance under Section 352.3 of Title 18 of the New York Codes, Rules and Regulations at the time of the effective date of the household's lease or rental agreement.

(3) In no event shall the household's monthly rent exceed the household's proportionate share of the rent for the residence. The determination of what constitutes the household's proportionate share of the rent shall be based on the formula set forth in Section 2525.7 of Title 9 of the New York Code of Rules and Regulations or a comparable measure.

(b) Rental Assistance Amount.

(1) The monthly rental assistance amount shall be equal to the household's monthly rent.

(2) HRA shall pay the monthly rental assistance amount directly to the primary occupant of the residence, each month for so long as the household remains eligible, the household continues to reside in the residence, and funding for the program remains available.

**§ 7-22 Moves.**

(a) A household receiving LINC VI rental assistance may not move to a new residence and maintain eligibility for LINC VI rental assistance except with the approval of HRA and provided that the move must be to a residence within the City of New York. The program participant must obtain such approval prior to moving to a new residence, provided that HRA may consider a request for approval made after the move if a program participant is unable to obtain such approval prior to the move due to circumstances beyond the program participant's control. If the household is moving with its current host family to a new residence, HRA shall grant approval for the move. In all other situations, HRA shall grant approval for a move from one residence to another residence only if the program participant shows that there is good cause for the move. If the requested move would result in an increase in the household's monthly rent, approval will also be subject to the availability of funding.

(b) If HRA has approved a move to a new residence, HRA shall recalculate the monthly rental assistance amount and that amount shall not change for one year from the effective date of the lease or rental agreement for the new residence. If the effective date of the lease or rental agreement for the new residence is not more than ten months after the start of the household's current year of participation in the program, then the household's current year of LINC VI rental assistance shall begin anew on the effective date of such lease or rental agreement. If the effective date of the lease or rental agreement for the new residence is more than ten months after the start of the household's current year of participation in the program and the household is eligible for renewal of LINC VI assistance, then the household's renewal period shall begin on the effective date of such lease or rental agreement.

## **§ 7-23 Agency Review Conference and HRA Administrative Appeal Process.**

### **(a) Right to HRA Administrative Review.**

A shelter resident or LINC VI program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or actions made by DHS and/or HRA under this subchapter, as well as any failures to act, or failures to act with reasonable promptness, by DHS and/or HRA in implementing the provisions of this subchapter.

### **(b) Agency Review Conference.**

(1) If a shelter resident or LINC VI program participant requests an agency review conference, HRA shall informally review and attempt to resolve the issues raised.

(2) A shelter resident or LINC VI program participant may request an agency review conference without also requesting an HRA administrative hearing. Requesting an agency review conference will not prevent a shelter resident or program participant from later requesting an HRA administrative hearing.

(3) An agency review conference must be requested within sixty days after the challenged determination or action, provided that if an HRA administrative hearing is scheduled, an agency review conference must be requested reasonably in advance of the scheduled hearing date.

(4) A request for an agency review conference will extend the time period to request an HRA administrative hearing as set forth in paragraph (2) of subdivision (c) of this section to sixty days after the date of the agency review conference.

### **(c) Request for an HRA Administrative Hearing.**

(1) An administrative hearing must be requested in writing. Such written request must be submitted by mail, electronic means or facsimile, or other means as HRA may set forth in an appeals notice.

(2) Except as provided in paragraph (4) of subdivision (b) of this section, a request for an administrative hearing must be made within sixty days after the challenged determination or action.

### **(d) Authorized Representative.**

(1) Except where impracticable to execute a written authorization, a person or organization seeking to represent a shelter resident or LINC VI program participant must have the shelter resident's or program participant's written authorization to represent him or her at an agency review conference or administrative hearing and to review his or her case record, provided that such written authorization is not required from an attorney retained by such shelter resident or program participant. An employee of such attorney will be considered an authorized representative if such employee presents written authorization from the attorney or if such attorney advises HRA by telephone of such employee's authorization.

(2) Once HRA has been notified that a person or organization has been authorized to represent a shelter resident or LINC VI program participant at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by HRA to the shelter resident or program participant relating to the conference and hearing.

(e) Aid Continuing.

(1) If a LINC VI program participant requests an administrative appeal of a determination by HRA that rental assistance payments issued under section 7-21 of this chapter are to be reduced, restricted, suspended or discontinued, or that the program participant's household is not eligible for renewal pursuant to subdivision (b) of section 7-20 of this chapter, such program participant shall have the right to continued receipt of LINC VI rental assistance payments at the rental assistance amount in effect at the time of the determination until the hearing decision is issued pursuant to subdivision (l) of this section, provided that:

(A) The program participant requests the administrative appeal within ten days of the mailing of the notice of such determination; and

(B) The appeal is based on a claim of incorrect computation or an incorrect factual determination.

(2) There is no right to continued rental assistance payments pursuant to this subdivision where the sole issue on appeal is one of local, State or Federal law or policy, or change in local, State or Federal law.

(3) Rental assistance payments will not continue pending the issuance of a hearing decision when:

(A) The LINC VI program participant has voluntarily waived his or her right to the continuation of such assistance in writing; or

(B) The LINC VI program participant does not appear at the administrative hearing and does not have a good reason for not appearing.

(4) If a LINC VI program participant requests an additional appeal pursuant to subdivision (m) of this section, rental assistance payments will continue uninterrupted after issuance of the hearing decision until a written decision is issued pursuant to subdivision (l) of this section.

(f) Notice.

HRA shall provide the shelter resident or LINC VI program participant with notice of the date, time, and location of the administrative hearing no fewer than seven calendar days prior to the scheduled date of the administrative hearing, unless the issue underlying the request for an administrative hearing has been resolved and the shelter resident or program participant has withdrawn his or her hearing request.

(g) Examination of Case Record.

The shelter resident or LINC VI program participant or his or her authorized representative has the right to examine the contents of his or her LINC program case file and all documents and records that HRA intends to use at the administrative hearing. Upon request by telephone or in writing, HRA shall provide such shelter resident or program participant with copies of all such documents, and copies of any additional documents in the possession of HRA and/or DHS that the shelter resident or program participant identifies and requests for purposes of preparing for the administrative hearing. HRA shall provide such documents at no charge reasonably in advance of the administrative hearing. If the request for such documents is made less than five business days before the administrative hearing, HRA must provide the shelter resident or program participant with copies of such documents no later than at the time of the administrative hearing.

(h) Adjournment.

The administrative hearing may be adjourned for good cause by the administrative hearing officer on his or her own motion or at the request of the shelter resident or LINC VI program participant, HRA, or DHS.

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by HRA who shall have the power to administer oaths and issue subpoenas and who shall have no prior personal knowledge of the facts concerning the challenged determination or action.

(2) The administrative hearing shall be informal, all relevant and material evidence shall be admissible and the legal rules of evidence shall not apply. The administrative hearing shall be confined to the factual and legal issues raised regarding the specific determination(s) for which the administrative hearing was requested.

(3) The shelter resident or LINC VI program participant shall have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence, to offer evidence in opposition to the evidence presented by HRA and DHS, to request that the hearing officer issue subpoenas, and to examine any documents offered by HRA and DHS.

(4) An audio recording, an audio visual recording or written transcript of the administrative hearing shall be made.

(j) Abandonment of Request for Administrative Hearing.

(1) HRA will consider an administrative hearing request abandoned if neither the shelter resident or LINC VI program participant nor his or her authorized representative appears at the administrative hearing, unless either the shelter resident or program participant or his or her authorized representative has:

(A) contacted HRA prior to the administrative hearing to request rescheduling of the administrative hearing; or

(B) within fifteen calendar days of the scheduled administrative hearing date, contacted HRA and provided a good cause reason for failing to appear at the administrative hearing on the scheduled date.

(2) HRA will restore the case to the calendar if the shelter resident or LINC VI program participant or his or her authorized representative has met the requirements of paragraph (1) of this subdivision.

(k) Hearing Record.

The recording or written transcript of the hearing, all papers and requests filed in connection with the hearing, and the hearing decision collectively constitute the complete and exclusive record of the administrative hearing.

(l) Hearing Decision.

(1) The hearing officer shall render a decision based exclusively on the hearing record. The decision must be in writing and must set forth the administrative hearing issues, the relevant facts, and the applicable law, regulations and approved policy, if any, upon which the decision is based. The decision must identify the issues to be determined, make findings of fact, state the reasons for the determinations, and when appropriate, direct HRA to take specific action.

(2) A copy of the decision, accompanied by written notice to the shelter resident or LINC VI program participant of the right to further appeal and the procedures for requesting such appeal, will be sent to each of the parties and to their authorized representatives, if any.

(m) Additional Appeal.

(1) An appeal from a decision of a hearing officer may be made in writing to the Commissioner of HRA or his or her designee provided it is received by HRA through the procedures described in the notice accompanying the hearing decision within at least five business days after the delivery of the hearing officer's decision. The record before the Commissioner shall consist of the hearing record, the hearing officer's decision and any affidavits, documentary evidence, or written arguments that the shelter resident or LINC VI program participant may wish to submit.

(2) The Commissioner or his or her designee shall render a written decision based on the hearing record and any additional documents submitted by the shelter resident or LINC VI program participant and HRA or DHS.

(3) A copy of the decision, accompanied by written notice to the shelter resident or LINC VI program participant of the right to judicial review, will be sent to each of the parties and to their authorized representatives, if any.

(4) Upon issuance, the decision of the Commissioner or his or her designee made pursuant to an appeal under this section is final and binding upon HRA and must be complied with by HRA.

**§ 7-24 Additional Provisions.**

(a) Households in the LINC VI Rental Assistance Program will be referred to service providers who will assist them with connecting to appropriate services in their communities.

(b) HRA shall provide a household moving from shelter moving expenses and a security deposit voucher equal to one month's rent to the extent available under Section 352.6 of Title 18 of the New York Codes, Rules and Regulations.

(c) Rental assistance provided under the LINC VI Rental Assistance Program cannot be combined with any other rent subsidies, except on a case-by-case basis.

(d) Waitlists will not be maintained for the LINC VI Rental Assistance Program.

(e) Shelter residents are responsible for identifying potential host families.

(f) A primary occupant who has entered into a lease or rental agreement with a household receiving LINC VI is prohibited from demanding, requesting, or receiving any monies, goods or services above the agreed-upon monthly rental amount. A primary occupant who demands, requests or receives any monies, goods or services above the agreed-upon monthly rental amount will be barred from further participation in any HRA rental assistance programs and may be barred from other rental assistance programs administered by the City of New York. Before placing a primary occupant on a disqualification list, HRA will provide notice to the primary occupant and opportunity for the primary occupant to object in writing.

(g) As a condition of participating in the LINC Family and Friend Reunification Rental Assistance Program, a primary occupant who has entered into a lease or rental agreement with a household receiving LINC VI rental assistance is prohibited from raising the household's monthly rent for one year from the effective date of the lease or rental agreement.

(h) The program participant must promptly inform HRA if any new person moves into the residence towards which LINC VI rental assistance payments are being applied.

(i) If a program participant is evicted or moves from the residence to which LINC VI rental assistance payments have been or are being applied, the primary occupant must return any over-payment to HRA.

(j) Any residence to which LINC VI rental assistance shall be applied must pass a safety and habitability inspection. Additionally, the host family must pass a clearance that shall include, at a minimum, an evaluation of any information contained in the Statewide Central Register of Child Abuse and Maltreatment concerning any family member and whether any host family member is registered as a sex offender pursuant to Article 6-C of the New York Correction Law.

**NEW YORK CITY LAW DEPARTMENT**

**DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Establishment of Family and Friends Reunification Rental Assistance Program (LINC VI) and Amendment of LINC III Rental Assistance Program

**REFERENCE NUMBER:** 2015 RG 054

**RULEMAKING AGENCY:** Human Resources Administration

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: May 4, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Establishment of Family and Friends Reunification Rental Assistance Program (LINC VI) and Amendment of LINC III Rental Assistance Program**

**REFERENCE NUMBER: HRA-8**

**RULEMAKING AGENCY: HRA**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

May 4, 2015  
Date