

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

**What are we proposing?** The New York City Department of Homeless Services (DHS) proposes to amend Title 31 of the Rules of the City of New York to include a new Chapter 4, which would establish a new income savings program for DHS shelter residents with earned income. This program, entitled the Income Savings Plan Program or “ISP” Program, follows amendments to the New York State Social Services Law, which authorize New York City to establish a savings program instead of charging rent for shelter as otherwise required by State law. The first phase of this ISP Program would be mandatory for employed single adult individuals who are residing in DHS shelters whose earned income makes them ineligible for Cash Assistance. The ISP Program is designed to help such employed individuals get back on their feet and exit shelter by budgeting for and developing savings while in shelter. Subsequent phases of the ISP program, which will be the subject of future rulemaking, will apply to additional populations.

**When and where is the hearing?** The New York City Department of Homeless Services will hold a public hearing on the proposed rule. The public hearing will take place at 2:00 PM on September 24, 2019. The hearing will be held in the Second Floor Auditorium at 125 Worth Street in Manhattan. Please enter on Lafayette Street.

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

- **Website.** You can submit comments to DHS through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [DHSRules@dhs.nyc.gov](mailto:DHSRules@dhs.nyc.gov). Please include “ISP” in the subject line.
- **Mail.** You can mail comments to:

DHS Rules  
150 Greenwich Street, 38<sup>th</sup> Floor  
New York, NY 10007

Please make clear that you are commenting on the ISP rule.

- **Fax.** You can fax comments to 917-639-0413. Please include “ISP” in the subject line.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 929-221-6690. You can also sign up in the hearing room

before the hearing begins on September 24. You can speak for up to three minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is September 24, 2019.

**What if I need assistance to participate in the hearing?**

You must tell us if you need a foreign language interpreter, a sign language interpreter, or a reasonable accommodation of a disability at the hearing. You can tell us by mail, fax or email at the addresses above. You may also tell us by telephone at 929-221-6690. Advance notice is requested to allow sufficient time to make arrangements. Please tell us by September 17.

This location has the following accessibility option(s) available: This location is accessible to individuals using wheelchairs or other mobility devices. For additional requests regarding accessibility please contact DHS Rules by mail, fax, email or telephone as indicated above.

**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 concerning the proposed rule will be available to the public on DHS's website.

**What authorizes DHS to make this rule?** Section 352.35 of Title 18 of the New York Code, Rules and Regulations.

**Where can I find DHS's rules?** DHS's rules are in Title 31 of the Rules of the City of New York.

**What laws govern the rulemaking process?** DHS 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(b) of the City Charter.

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

Section 352.35 of Title 18 of the New York Codes, Rules and Regulation, authorizes the New York City Department of Homeless Services (“DHS”) to make this proposed rule.

Following amendments to New York Social Services Law § 36-c, DHS proposes this rule for the Income Savings Plan Program, or “ISP” Program, whose purpose is to help clients exit DHS shelters by budgeting for and developing savings to facilitate their transition to permanent housing upon shelter exit. Under the ISP Program, certain households with earned income will be required to deposit a portion of their earned income (generally 30%) to a savings account. Deposited funds will be held by the New York City Department of Social Services and will be made available to program participants upon their exit from shelter.

The ISP Program will be implemented in phases for multiple populations. This rule establishes the first phase of this program, which will apply to employed residents of DHS shelters for single adults whose earned income makes them ineligible for Cash Assistance. DHS will amend the rule as it rolls out the program to additional populations with earned income, including families with children. Participation in the ISP Program plan will be a shelter program eligibility requirement pursuant to State regulation 18 NYCRR § 352.35(f) and will be subject to the application of the temporary discontinuance of shelter requirements of State regulation 18 NYCRR § 352.35, with a provision to immediately cure a violation.

New material is underlined.

The New York City Department of Homeless Services proposes to amend Title 31 of the Rules of the City of New York to include a new chapter 4, which would read as follows:

#### **Chapter 4: Income Savings Plan Program**

##### **§ 4-01 Definitions.**

For the purposes of this chapter, the following terms have the following meanings:

(a) “Cash assistance” means benefits, including monthly grants and shelter allowances, issued under the Safety Net Assistance program pursuant to New York Social Services Law § 159, and regulations promulgated thereunder.

(b) “DHS” means the New York City Department of Homeless Services.

(c) “DHS shelter” means a shelter operated by or on behalf of DHS.

(d) “Earned income” means income earned from employment, including both subsidized and unsubsidized employment.

(e) “Income Savings Plan Program” or “ISP Program” means the program established pursuant to this chapter.

(f) “DSS” means the New York City Department of Social Services.

(g) “Program participant” means an individual enrolled in the ISP Program.

(h) “Savings month” means the month for which a savings amount is calculated.

##### **§ 4-02 In General.**

(a) Individuals residing in a DHS shelter for single adults who receive earned income that makes them ineligible for Cash Assistance shall be required to participate in the ISP Program following the individual’s receipt of notice of the terms of the program. Participation in the ISP Program will be a shelter program requirement for such individuals under Part 352.35(f) of Title 18 of the New York Codes, Rules and Regulations.

(b) Savings of program participants pursuant to this chapter will be maintained in client accounts maintained by the New York City Department of Social Services and shall be made available to

such individuals following their exit from DHS shelter as described in section 4-05 of this chapter.

#### **§ 4-03 Savings Amounts and Adjustments.**

(a) Program participants residing in a DHS shelter for single adults will receive a monthly savings statement, which shall include:

(1) the program participant's deposit balance, which shall equal the sum of all funds deposited by the program participant to their client account to date, minus any amounts released to the program participant to date;

(2) the current month's savings request as calculated pursuant to subdivision (b) of this section, and the information on which such amount was calculated, including the program participant's earned income, any approved deductions to such income pursuant to subdivision (c) of this section, and the number of days in shelter during the current savings month;

(3) the current amount due to be deposited by the program participant in their client account, which shall be equal to the sum of any amount due in the previous savings month, the current month's savings request and any funds released to the program participant during the current savings month pursuant to section 4-05(c) of this chapter, reduced by the sum of any deposits made during the current savings month and any one-time adjustments made during the current savings month, all of which shall be listed on the savings statement;

(4) the date the amount is due to be deposited and how to make a deposit; and

(5) information on how to challenge the amount due and how to request a deduction to earned income or a one-time adjustment to the amount due pursuant to subdivision (c) of this section.

(b) DHS will calculate a program participant's savings request for any given savings month by taking thirty (30) percent of the program participant's earned income as of the last day of the savings month, subject to any deductions to earned income that have been approved pursuant to subdivision (c) of this section, and prorating it based on the number of days the program participant resided in a DHS shelter for single adults in that month. For example, if the program participant was in a DHS shelter for single adults for only one day out of thirty in a given month

and no deductions to earned income have been approved pursuant to subdivision (c) of this section, the savings request will be 1/30th of 30% of the program participant's monthly earned income as of the last day of the current savings month. In this example, if a deduction to earned income had been approved pursuant to subdivision (c) of this section, the savings request would be 1/30 of 30% of the program participant's earned income after such deduction was applied.

(c) Program participants may request that DHS apply a deduction to the earned income used to calculate their savings requests or make a one-time adjustment to the amount due to be deposited. DHS will assess such requests for deductions to earned income or adjustments to the amount due for good cause on a case by case basis, pursuant to Part 351.26 of Title 18 of the New York Codes, Rules and Regulations. If DHS approves a request to apply a deduction to earned income, DHS will determine for what period of time the deduction will apply based on documentation provided by the individual.

(d) If a program participant wishes to deposit more than the amount due in their client account, they may do so at any time.

(e) Once enrolled in the ISP Program, program participants must report any changes in income within a timeframe and in a form and manner to be designated by DHS.

(f) The past amount due will be set to zero when a program participant has been out of shelter for thirty (30) days, regardless of whether the funds in their client account have been returned to them at that time, or whenever funds are released to the program participant pursuant to section 4-05(b) of this chapter.

#### **§ 4-04 Enforcement of ISP Program Requirements through Immediately Curable Shelter Sanctions.**

(a) If a program participant fails to make the required deposits to their client account, DHS will schedule a case conference with the individual to discuss their non-compliance with program requirements and will provide the program participant with an opportunity to cure the non-compliance.

(b) If non-compliance remains unresolved following the case conference, the program participant will be provided with notice that their shelter may be discontinued pursuant to Part 352.35 of Title 18 of the New York Codes, Rules and Regulations and an opportunity to demonstrate good cause for the non-compliance or to cure the non-compliance by depositing funds in their savings account.

(1) Good cause will be determined on a case-by-case basis, taking into account other liabilities, medical or other emergencies, need, and good faith attempts to comply in accordance with Part 351.26 of Title 18 of the New York Codes, Rules and Regulations.

(2) Any temporary discontinuance of shelter shall be non-durational and immediately curable upon deposit of an amount of funds in their ISP Program account consistent with payment arrangements reached between the client and DHS in a case conference.

(c) All individuals receiving the notice specified in subdivision (b) of this section shall have all rights pursuant to Part 358 of Title 18 of the New York Code, Rules and Regulations including but not limited to a fair hearing before the New York State Office of Temporary and Disability Assistance.

#### **§ 4-05 Return of Savings.**

(a) Standard Release After Exit: Once a program participant has been out of a DHS shelter for thirty (30) consecutive days, DHS will release the funds in their client account to the individual between thirty (30) and forty-five (45) days after shelter exit, if a mailing address is available or if the individual has requested to pick up their check in-person from DSS. If a mailing address is not available and the individual has not requested an in-person pick-up, DHS will hold the unreturned funds for one year and perform due diligence to locate the individual during that time. Funds that DHS is unable to return within one year of shelter exit will be considered unclaimed and processed in accordance with State law.

(b) Expedited Release After Exit: DHS may release the funds in a program participant's client account to the program participant following their exit from DHS shelter, but before thirty (30) days have passed, at the request of the client for good cause where DHS has determined that the program participant is unlikely to return to shelter.

(c) Early Release Prior to Exit: DHS may approve early release of funds to a program participant to assist the individual with documented expenses necessary to arrange for permanent housing or, in its discretion and on a case-by-case basis, for reasons other than to arrange for permanent housing. In the event that funds are released to an individual pursuant to this subdivision, the individual's current amount due will be increased by the amount of the funds that were released. If the program participant wishes to be relieved of the obligation to return such funds to their client account, they may request a one-time adjustment pursuant to subdivision (c) of section 4-03 of this chapter.



**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: Implementation of Income Savings Plan Program**

**REFERENCE NUMBER: 2019 RG 057**

**RULEMAKING AGENCY: New York City Department of Homeless Services**

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: August 16, 2019

**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: Implementation of Income Savings Plan Program**

**REFERENCE NUMBER: DHS-3**

**RULEMAKING AGENCY: New York City Department of Homeless Services**

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

August 19, 2019  
Date