

NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

Notice of Opportunity to Comment on Proposed Rule

What are we proposing? The New York City Human Resources Administration (HRA) proposes to amend the CityFHEPS rule in Chapter 10 of Title 68 of the Rules of the City of New York to: (1) make permanent the provisions of an emergency rule issued January 30, 2020 that authorizes additional payments in limited circumstances in certain rent-regulated units; and (2) provide that the agency, on request, will recalculate a household's CityFHEPS rental assistance amount midyear if there has been a change in income that would decrease the household's client contribution.

When and where is the hearing? The New York City Human Resources Administration has determined, pursuant to Section 1043(e) of the New York City Charter, that in light of the current public health emergency, a public hearing would serve no public purpose.

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

- **Website.** You can submit comments to HRA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to NYCRules@hra.nyc.gov. Please include "CITYFHEPS" in the subject line.
- **Fax.** You can fax comments to 917-639-0413. Please include "CITYFHEPS" in the subject line.
- **Phone.** You can provide your comments by phone by calling 929-221-7220 and leaving a message.

Is there a deadline to submit comments? The deadline to submit comments is April 21, 2020.

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/>. Shortly after the public comment period ends on April 21, copies of all comments submitted online and received by fax and email and a summary of comments left by telephone concerning the proposed rule will be available to the public on HRA's website.

What authorizes HRA to make this rule? Sections 603 and 1043 of the City Charter, Sections 34, 56, 61, 62, 77, and 131-a of the New York Social Services Law authorize HRA to make this proposed rule.

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

Was the proposed rule included in HRA'S regulatory agenda? This rule was not contemplated when HRA issued its most recent regulatory agenda.

What laws 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.

Notice of Extension of Emergency Rule

Notice is further given, pursuant to New York City Charter Section 1043(i)(2), that the emergency rule issued on January 30, 2020 authorizing additional CityFHEPS rental assistance payments in connection with certain regulated units is hereby extended an additional sixty (60) days, to May 29, 2020. The additional sixty (60) days are needed for HRA to adopt a final rule concerning these payments after completing the public comment process set forth in New York City Charter Section 1043(e).

Statement of Basis and Purpose of Proposed Rule

In order to implement the Mayor's priority of preventing homelessness and moving households into stable housing, the Commissioner of the New York City Department of Social Services / Human Resources Administration (DSS/HRA) issued an emergency rule January 30, 2020 concerning the CityFHEPS rental assistance program. Specifically, the emergency rule authorizes DSS/HRA, to make additional payments, over and above the regular CityFHEPS rental assistance amounts, to landlords of units that are subject to the New York City Department of Housing Preservation & Development ("HPD") / New York City Housing Development Corporation ("HDC") Marketing Handbook pursuant to a regulatory agreement or similar instrument for which HPD and/or HDC is requiring or approving that such units be filled by homeless individuals or families instead of or subsequent to a lottery, where such payments are needed to make up the difference between the CityFHEPS maximum rent and the regulatory rent. The emergency rule was prompted by the availability of more than 150 rent-regulated units, many under the State's 421-a Affordability Option C program. The additional

payments authorized under the emergency rule have already enabled individuals to exit shelter and move into these units.

HRA now proposes making the provisions of the emergency rule permanent so that these payments can continue.

Additionally, HRA also proposes revising section 10-09(a) concerning midyear recalculations of the CityFHEPS rental assistance amount. That provision currently provides that the agency will recalculate the CityFHEPS rental assistance amount, at the household's request, only where the household's income has decreased prior to renewal. However, there are instances, including when a smaller household who was previously on cash assistance receives disability benefits, where a household may potentially benefit from a midyear recalculation when their income has increased midyear. Therefore, HRA proposes amending the provision to provide that, upon request, the agency will recalculate the CityFHEPS rental assistance payment prior to renewal whenever there is a change in income that would decrease the household's client contribution.

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 and sections 603 and 1043 of the New York City Charter.

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

Section 1. Subdivision a of section 10-09 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

...

(a) At the household's request, [where the household's income has decreased prior to renewal] when the household's income has changed in such a manner that would decrease the household's base client contribution, the Commissioner will recalculate the CityFHEPS rental assistance payment amount in accordance with section 10-06 or 10-07 of this chapter, as applicable.

...

§ 2. Section 10-15 of Chapter 10 of Title 68 of the Rules of the City of New York is amended by adding a new subdivision (h), to read as follows:

...

(h) Notwithstanding any provisions in this chapter to the contrary, HRA in its discretion may offer payments to landlords of units that are subject to the New York City Department of Housing Preservation and Development (“HPD”) / New York City Housing Development Corporation (HDC”) Marketing Handbook pursuant to a regulatory agreement or similar instrument, for which HPD or HDC is requiring or approving such units to be filled by homeless individuals or families instead of or subsequent to a lottery, where such payments are needed to make up the difference between the CityFHEPS maximum rent under section 10-05 and the regulatory rent. In such instances, the rent for the unit may exceed the maximum rent levels set forth in 10-05, including at the time of initial approval of the CityFHEPS application, but may not exceed the regulatory rent.

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NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

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CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of CityFHEPS rule concerning affordable housing

REFERENCE NUMBER: 2020 RG 013

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

Date: March 17, 2020

Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of CityFHEPS rule concerning affordable housing

REFERENCE NUMBER: HRA - 24

RULEMAKING AGENCY: Human Resources Administration

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

March 17, 2020

Date