

## 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) proposes to add a new Chapter 8 to Title 68 of the Rules of the City of New York to continue the implementation of the City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program, which are collectively referred to as "CITYFEPS." These programs, which were designed in consultation with the New York City Department of Homeless Services, were established by emergency rule issued on April 17, 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 AM on July 9, 2015. The hearing will be held at Spector Hall, 22 Reade Street, First Floor, in downtown Manhattan.

**How do I comment on the proposed rule?** 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 [constituentaffairs@hra.nyc.gov](mailto:constituentaffairs@hra.nyc.gov). Please include "CITYFEPS Proposed 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 "CITYFEPS 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 July 9, 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 July 2, 2015. You can call us at 929-221-5188, send a fax to 917-639-0296, or contact us by mail at:

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

**Can I review the comments made on the proposed rule?** You can review the comments made online on the proposed rule 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 and sections 603 and 1043 of the New York City Charter 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.

#### **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 City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program, issued on April 17, 2015, is hereby extended an additional sixty days, to August 15, 2015. The additional sixty days are needed for HRA to adopt a final rule concerning the programs after completing the public comment and hearing process set forth in New York City Charter Section 1043(e).

## **Statement of Basis and Purpose**

In order to implement the Mayor's priority of preventing homelessness and moving families with children into stable housing, the Commissioner of the New York City Human Resources Administration (HRA) proposes to add Chapter 8 to Title 68 of the Rules of the City of New York to continue the implementation of two new rent supplement programs. The City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program (collectively, the "CITYFEPS Programs"), which were designed in consultation with the Commissioner of the New York City Department of Homeless Services (DHS) and established by emergency rule issued on April 17, 2015, provide a monthly rent supplement to families with children who are in receipt of Public Assistance benefits from HRA and who have lost or are losing their housing as a result of an eviction proceeding, a foreclosure proceeding, a City agency vacate order, domestic violence, or other health and safety reasons, or who currently reside in a DHS shelter that has been identified for imminent closure. The supplement enables families to rent apartments at competitive market-rate rents based on 2014 New York City Housing Authority Section 8 Voucher Payment Standards. The emergency rule was limited to families with children. The proposed permanent rule makes the program available to pregnant women as well in order to be consistent with a similar State program.

There is an urgent need for these programs. Shelter census data shows that the number of families with children in the DHS shelter system is at a record high, even taking into account the hundreds of families who have already been able to leave shelter under existing HRA rental assistance programs targeted to families with children.

Specifically, between January 1, 2002 and December 31, 2013, the number of families with children in the DHS shelter system increased by 63%, including an 80% increase in the number of children. As of April 6, 2015, there were 11,766 families in the DHS shelter system, including 23,816 children. There are nearly 3,000 families with children currently in DHS shelter as a result of eviction. The increase in the shelter census is primarily because the length of stay of families in shelter has increased while the number of exits has declined. For example, the length of stay in shelter for families with children increased approximately 20% between August 2012 and December 2013.

As shelter census and length-of-stay rates have increased, the DHS shelter system for families with children has experienced its lowest vacancy rates since 2005. Indeed, on April 8, 2015, the vacancy rate for families with children in the shelter system was .72%. Although 1,566 units have been added to the shelter system for families with children between April 8, 2013 and April 8, 2015, the system continues to experience high capacity levels due to the decline in vacancy rates.

Census data also demonstrates the urgent need for an additional program available to families whose lives have recently been affected by domestic violence. As of April 3, 2015, there were 1,021 households, including 1,570 children, in HRA domestic violence shelters, and more than 725 families in the DHS shelter system were survivors of domestic violence certified by HRA.

Finally, there are a number of shelters for families with children that have been identified for imminent closure. Providing a rent supplement is the best way to enable families in these shelters to be rapidly re-housed with as little disruption as possible. Providing a rent supplement to families in a closing shelter, rather than relocating such families to another

shelter, will allow them to exit the shelter system and remain in the community where the shelter is located. This will permit stability and continuity in connection with schools, jobs, and community resources and services.

Over a twelve-month period, the CITYFEPS Programs will assist approximately 1,000 families with children and pregnant women to secure permanent housing in the community. Subject to the availability of funding, the rent supplements will be continued indefinitely for these families so long as they remain eligible for these programs.

HRA's authority for this proposed 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 text is underlined.

Section one. Title 68 of the Rules of the City of New York is amended by adding a new chapter 8 to read as follows:

## **Chapter 8: The City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program (“CITYFEPS Programs”)**

### **§ 8-01 Definitions.**

- (a) The “CITYFEPS Programs” or “CITYFEPS” means the City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program described in this chapter.
- (b) “CITYFEPS rent supplement” means a rent supplement provided pursuant to either the City Family Eviction Prevention Supplement Program or the City Family Exit Plan Supplement Program.
- (c) The “City shelter system” means DHS Shelters and HRA Shelters.
- (d) “DHS Shelter” means a shelter for families with children or adult families operated by or on behalf of the New York City Department of Homeless Services.
- (e) “Gross income” means the sum of earned income, as defined and computed as set forth in Section 352.17 of Title 18 of the New York Codes, Rules and Regulations, except that earned income does not include income earned through subsidized employment, and unearned income, as defined and computed as set forth in Section 387.10 of Title 18 of the New York Codes, Rules and Regulations, except that unearned income shall only include such income that is regularly recurring.
- (f) The “household” means the individuals who have applied for, have had an application submitted on their behalf for, or are in receipt of CITYFEPS rent supplement payments pursuant to this chapter, regardless of their eligibility for Public Assistance.
- (g) “HRA” means the New York City Human Resources Administration.
- (h) “HRA Shelter” means a domestic violence shelter operated by or on behalf of HRA pursuant to Part 452 of Title 18 of the New York Codes, Rules and Regulations.
- (i) “HUD” means the United States Department of Housing and Urban Development.
- (j) A “program participant” means an individual who has entered into a lease or other rental agreement for a residence to which CITYFEPS rent supplement payments have been or are being applied.
- (k) “Public Assistance” means benefits, including monthly grants and shelter allowances, issued under the Family Assistance program pursuant to New York Social Services Law § 349 and/or the Safety Net Assistance program pursuant to New York Social Services Law § 159, and regulations promulgated thereunder.
- (l) “Subsidized employment” means subsidized private sector employment or subsidized public sector employment as those terms are used in New York Social Services Law § 336(1)(b)-(c).

### **§ 8-02 Administration of the CITYFEPS Programs.**

HRA shall administer the CITYFEPS Programs and shall make eligibility determinations in accordance with this chapter.

**§ 8-03 The City Family Eviction Prevention Supplement Program.**

(a) Initial Eligibility.

(1) To be eligible for the City Family Eviction Prevention Supplement Program, a household must meet the following eligibility requirements:

(A) The household must be in receipt of Public Assistance and all members eligible for Public Assistance must be in receipt of 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 or a pregnant woman;

(C) The household must:

(i) be 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 New York Social Services Law § 459-a, and

(I) reside in a DHS shelter but have not refused placement in an HRA shelter; or

(II) reside in an HRA Shelter and have reached the applicable maximum length of stay permitted under New York Social Services Law § 459-b;

(ii) be eligible for DHS shelter pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations, be in the City shelter system and, within the twelve months prior to entering the City shelter system, have been evicted or have left a residence located within the City of New York that (a) was the subject of an eviction proceeding; or (b) the household was required to vacate as a result of a vacate order issued by a City agency or a foreclosure action, or for health and safety reasons as determined by a City agency, other than reasons that would make the household eligible for shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations; or

(iii) be at risk of entry into a DHS shelter as determined by HRA in consultation with DHS and within the last twelve months have been evicted or have lived in a residence within the City of New York that (a) was or is the subject of an eviction proceeding; or (b) the household was or is required to vacate as a result of a vacate order issued by a City agency or a foreclosure action, or for health and safety reasons as determined by a City agency, other than reasons that would make the household eligible for shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations.

(D) The household's Public Assistance benefits must not be reduced pursuant to New York Social Services Law § 342;

(E) The household must have a lease, or an agreement in writing to rent for at least one year, the residence to which the CITYFEPS rent supplement will be applied and a monthly rent obligation that (i) does not exceed the maximum rent for the household's size under subdivision (a) of section 8-05 of this chapter and (ii) is protected from increases for at least one year except as authorized under rent stabilization laws and rules or HUD regulations;

(F) The residence to which the CITYFEPS rent supplement shall be applied must be located within the City of New York;

(G) The household must apply for housing assistance pursuant to Section 8 of the United States Housing Act of 1937, if available, and accept the benefit, if offered;

(H) The household must agree to have its CITYFEPS rent supplement paid directly to the landlord; and

(I) The household must:

(i) provide accurate, complete and current information on income and household composition;

(ii) provide supporting documentation as necessary to verify eligibility and the information needed to determine the CITYFEPS rent supplement amount, maximum rent, and any required contributions by household members; and

(iii) report to HRA any changes in household income or household composition within ten days of such changes occurring.

(2) The number of eligible households that can be approved to receive rent supplements under the City Family Eviction Prevention Supplement Program will be limited by the amount of available funding. Applications must be submitted on a form and in a format established by HRA.

(3) At the time of approval, HRA will calculate, pursuant to section 8-05 of this chapter, the household's monthly CITYFEPS rent supplement amount and any contributions required to be made by household members not eligible for Public Assistance. The CITYFEPS rent supplement amount and the amounts of any required contributions are subject to change during the household's participation in the City Family Eviction Prevention Supplement Program as set forth in section 8-05 of this chapter.

(4) In no event shall HRA approve a CITYFEPS rent supplement for a household that includes the perpetrator of the domestic violence that resulted in the determination of eligibility for HRA shelter described in clause (i) of subparagraph (C) of paragraph (1) of subdivision (a) of this section.

(b) Continued Eligibility.

A household's continued receipt of a rent supplement under the City Family Eviction Prevention Supplement Program is conditioned on the household continuing to meet the requirements of subparagraphs (A), (B), (F), (H), and (I) of paragraph (1) of subdivision (a) of this section and

continuing to reside in the residence to which the CITYFEPS supplement is being applied, except as provided in section 8-06 of this chapter.

#### **§ 8-04 The City Family Exit Plan Supplement Program.**

(a) Initial Eligibility.

(1) To be eligible for the City Family Exit Plan Supplement Program, a household must meet the following eligibility requirements:

(A) The household must be in receipt of Public Assistance and all members eligible for Public Assistance must be in receipt of 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 or a pregnant woman;

(C) The household must reside in a DHS shelter that has been identified for imminent closure;

(D) The household's Public Assistance benefits must not be reduced pursuant to New York Social Services Law § 342;

(E) The household must have a lease, or an agreement in writing to rent for at least one year, the residence to which the CITYFEPS rent supplement will be applied and must have a monthly rent obligation that (i) does not exceed the maximum rent for the household's size under subdivision (a) of section 8-05 of this chapter and (ii) is protected from increases for at least one year except as authorized under rent stabilization laws and rules or HUD regulations;

(F) The residence to which the CITYFEPS rent supplement shall be applied must be located within the City of New York;

(G) The household must apply for housing assistance pursuant to Section 8 of the United States Housing Act of 1937, if available, and accept the benefit, if offered;

(H) The household must agree to have its CITYFEPS rent supplement paid directly to the landlord; and

(I) The household must:

(i) provide accurate, complete and current information on income and household composition;

(ii) provide supporting documentation as necessary to verify eligibility and the information needed to determine the CITYFEPS rent supplement amount, maximum rent, and any required contributions by household members; and

(iii) report to HRA any changes in household income or household composition within ten days of such changes occurring.

(2) The number of eligible households that can be approved to receive rent supplements under the City Family Exit Plan Supplement Program will be limited by the amount of available funding. Applications must be submitted on a form and in a format established by HRA.

(3) At the time of approval, HRA will calculate, pursuant to section 8-05 of this chapter, the household's monthly CITYFEPS rent supplement amount and any contributions required to be made by household members not eligible for Public Assistance. The CITYFEPS rent supplement amount and the amounts of any required contributions are subject to change during the household's participation in the CITYFEPS program as set forth in section 8-05 of this chapter.

(4) In no event shall HRA approve a CITYFEPS rent supplement for a household that includes the perpetrator of the domestic violence that resulted in the determination of eligibility for HRA shelter described in clause (i) of subparagraph (C) of paragraph (1) of subdivision (a) of this section.

(b) Continued Eligibility.

A household's continued receipt of a rent supplement under the City Family Exit Plan Supplement Program is conditioned on the household continuing to meet the requirements of subparagraphs (A), (B), (F), (H), and (I) of paragraph (1) of subdivision (a) of this section and continuing to reside in the residence to which the CITYFEPS rent supplement is being applied, except as provided in section 8-06 of this chapter.

**§ 8-05 Maximum Rents and Calculation of Monthly Program Participant Contributions and Rent Supplement Amounts.**

(a) Except as provided in subdivisions (g) and (h) of this section, at the time of approval pursuant to paragraph (2) of subdivision (a) of section 8-03 or 8-04 of this chapter, the maximum CITYFEPS rent supplement amount and the maximum rent towards which CITYFEPS rent supplements may be applied shall not exceed the amounts set forth in the table below.

<u>Household Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>Maximum Rent</u>	<u>\$1,213</u>	<u>\$1,268</u>	<u>\$1,515</u>	<u>\$1,515</u>	<u>\$1,956</u>	<u>\$1,956</u>	<u>\$2,197</u>	<u>\$2,197</u>
<u>Maximum CITYFEPS Rent Supplement</u>	<u>\$936</u>	<u>\$985</u>	<u>\$1,115</u>	<u>\$1,065</u>	<u>\$1,455</u>	<u>\$1,432</u>	<u>\$1,651</u>	<u>\$1,651</u>

(b) Except as provided in subdivision (h) of this section, for the purposes of subdivision (a) of this section, the household size equals the number of household members in receipt of Public Assistance.

(c) Except as provided in subdivisions (e) and (f) of this section, and provided the household remains eligible for a CITYFEPS rent supplement, the CITYFEPS rent supplement amount shall be the household's actual rent less the sum of (1) any contributions required to be made in accordance with the provisions of subdivision (g) of this section, and (2) 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 in receipt of Public Assistance, provided that the CITYFEPS rent supplement amount shall not exceed the maximum CITYFEPS rent supplement amount for the household size as set forth in subdivision (a) of this section. If the actual rent exceeds the sum of the CITYFEPS rent supplement amount and the standard Public Assistance shelter allowance, the household shall pay directly to the landlord the amount that the actual rent exceeds such sum.

(d) If a household in receipt of a CITYFEPS rent supplement 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 allowance amount and the Public Assistance shelter allowance amount that the household receives.

(e) If the household's Public Assistance benefits are reduced pursuant to New York Social Services Law § 342, the CITYFEPS rent supplement amount will be reduced using the same rule applied to reduce the Public Assistance benefits. The CITYFEPS rent supplement amount will be so reduced for the duration of the Public Assistance benefits reduction and shall be reinstated at the expiration of the Public Assistance benefits reduction. The household shall pay any reduction amounts directly to the landlord.

(f) If a household is in receipt of the maximum CITYFEPS rent supplement amount and the household's monthly rent obligation increases above the applicable maximum rent set forth in subdivision (a) of this section, 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 CITYFEPS rent supplement amount on a case-by-case basis.

(g) 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. A person ineligible for Public Assistance on the basis of his or her immigration status shall not be included in the household for purposes of determining the maximum rent or maximum CITYFEPS rent supplement amount as set forth in subdivision (a) of this section and will not be subject to the program participant contribution requirement as set forth in this subdivision. If the household contains an individual contributing a pro rata share of rent or thirty percent of his or her gross income, the household's maximum rent shall be equal to the lesser of: (1) the sum of the maximum rent for the household size as determined pursuant to subdivision (b) of this section and such individual's required contribution, or (2) the maximum rent for the household if the household size were increased by one. Such individual's contribution shall be deducted from the household's actual rent for the purposes of determining the CITYFEPS rent supplement amount as set forth in subdivision (c) of this section.

(h) 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 but shall not be included in the household for purposes of determining the maximum CITYFEPS rent supplement amount as set forth in subdivision (a) of this section and will not be subject to the program participant contribution requirement set forth in subdivision (g) of this section.

(i) A CITYFEPS rent supplement amount and any contributions required by subdivision (g) of this section shall be increased or decreased as a result of changes in a household's income, composition, or rent, provided that such increased or decreased rent supplement amount and

contributions are calculated in accordance with the provisions of this section. Program participants shall promptly inform HRA of changes in income, household composition, or rent. Program participants will receive a notice from HRA of any change in their CITYFEPS rent supplement amount and required contributions.

(j) HRA shall pay the CITYFEPS rent supplement 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 any program participant contribution, the household shall be responsible for any increases in the rent that are authorized under this chapter.

#### **§ 8-06 Moves.**

(a) A household receiving a CITYFEPS rent supplement may not move to a new residence and maintain eligibility for a CITYFEPS rent supplement except with the prior approval of HRA. HRA shall grant such approval if:

(1) The new monthly rent obligation does not exceed the maximum rent for the household's size under subdivision (a) of section 8-05 of this chapter and is protected from increases for at least one year except as authorized under rent stabilization laws and rules or HUD regulations; and

(2) The need for the move is a direct result of: (A) the household's inability to pay required contributions pursuant to subdivision (g) of section 8-05 of this chapter due to changes in the household's income, composition or rent obligations; (B) a vacate order issued by a City agency or court; or (C) a documented health and safety concern or other good cause, as determined by HRA on a case-by-case basis.

(b) If HRA has approved a move to a new residence, HRA shall recalculate the monthly CITYFEPS rent supplement amount and program participant contribution pursuant to section 8-05 of this chapter.

#### **§ 8-07 Restoration.**

If a household becomes ineligible for CITYFEPS because it has become ineligible for Public Assistance as a result of excess income or for reasons other than pursuant to New York Social Services Law § 342, the household may have its CITYFEPS rent supplement restored if (a) the household continues to reside in the address in which it resided at the time its Public Assistance benefits ceased; and (b) its Public Assistance benefits are reinstated within twelve months after such benefits ceased.

#### **§ 8-08 Agency Review Conference and HRA Administrative Appeal Process.**

(a) Right to HRA Administrative Review.

An applicant or program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or actions made by HRA under this chapter, as well as any failures to act, or failures to act with reasonable promptness, by HRA in implementing the provisions of this chapter.

(b) Agency Review Conference.

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

(2) An applicant or program participant may request an agency review conference without also requesting an HRA administrative hearing. Requesting an agency review conference will not prevent an applicant 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 further 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 an applicant or program participant must have the applicant'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 applicant 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 an applicant or program participant at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by HRA to the applicant or program participant relating to the conference and hearing.

(e) Aid Continuing.

(1) If a program participant requests an administrative appeal of a determination by HRA that CITYFEPS rent supplement payments are to be reduced, restricted, suspended or discontinued, such program participant shall have the right to continued receipt of CITYFEPS rent supplement payments at the CITYFEPS rent supplement 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 CITYFEPS rent supplement 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) Rent supplement payments will not continue pending the issuance of a hearing decision when:

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

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

(4) If a program participant requests an additional appeal pursuant to subdivision (m) of this section, rent supplement 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 applicant or 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 applicant or program participant has withdrawn his or her hearing request.

(g) Examination of Case Record.

The applicant or program participant or his or her authorized representative has the right to examine the contents of his or her CITYFEPS 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 applicant or program participant with copies of all such documents, and copies of any additional documents in the possession of HRA that the applicant 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 applicant 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 applicant or program participant, or HRA.

(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 applicant or 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, to request that the hearing officer issue subpoenas, and to examine any documents offered by HRA.

(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 applicant or program participant nor his or her authorized representative appears at the administrative hearing, unless either the applicant 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 applicant or 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 applicant or 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 no later than 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 applicant or 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 applicant or program participant and HRA.

(3) A copy of the decision, accompanied by written notice to the applicant or 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.

**§ 8-09 Additional Provisions.**

(a) If a household is eligible for one or both of the rent supplement programs described in this chapter or any rental assistance program described in chapter 7 of this title, HRA reserves the right to determine, based on administrative and programmatic needs, which program the household will participate in.

(b) CITYFEPS rent supplements cannot be combined with any other rent subsidies other than a Public Assistance shelter allowance provided pursuant to Section 352.3 of Title 18 of the New York Codes, Rules and Regulations, except with the prior approval of HRA on a case-by-case basis.

(c) If HRA identifies a household as potentially eligible for Section 8 or other federal housing program subsidies or vouchers, the household must apply for such benefits and accept them if offered.

(d) Applicants are responsible for identifying potential housing. However, shelter staff may provide assistance to such individuals in their housing search.

(e) A landlord who signs a lease or other rental agreement with a household in receipt of a CITYFEPS rent supplement is prohibited from demanding, requesting, or receiving any amount above the rent or fees as stipulated in the lease or rental agreement regardless of any changes in household composition. A landlord who demands, requests or receives any amount above what is set forth in the lease or rental agreement will be barred from further participation in any HRA rent supplement or rental assistance programs and may be barred from other rent supplement or rental assistance programs administered by the City of New York. Before placing a landlord on a disqualification list, HRA will provide notice to the landlord and an opportunity for the landlord to object in writing.

(f) If a program participant moves or is evicted from the apartment to which CITYFEPS rent supplement payments have been applied, the landlord must return any over-payment to HRA.

**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:** City Family Eviction Prevention Supplement Program (Permanent Rule)

**REFERENCE NUMBER:** 2015 RG 066

**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: June 4, 2015

Acting Corporation Counsel

**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: City FEPS permanent rule**

**REFERENCE NUMBER: HRA - 9**

**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/ [Stephen Narloch]

Mayor's Office of Operations

[6/4/2015]

Date