

## **NOTICE OF ADOPTION OF EMERGENCY RULE AMENDING THE CITYFHEPS RENTAL ASSISTANCE VOUCHER PROGRAM**

Pursuant to the authority of the Commissioner of the New York City Human Resources Administration (HRA), under sections 603 and 1043(i) of the New York City Charter, and sections 34, 56, 61, 62, 77, and 131-a of the New York Social Services Law, notice is hereby given of the adoption of the following emergency rule, effective immediately, amending the CityFHEPS rules by repealing the qualifying shelter stay eligibility criterion and standardizing the work requirement at 10 hours per week.

### **New York City Human Resources Administration Statement of Basis and Purpose of Emergency Rule**

In order to implement the Mayor's direction to assist families and individuals experiencing homelessness in securing and maintaining stable and permanent housing, the Commissioner of the New York City Department of Social Services (DSS) is amending Chapter 10 of Title 68 of the Rules of the City of New York, which establishes the CityFHEPS rental assistance voucher program, by removing the program's eligibility requirement of a qualifying shelter stay for households seeking shopping letters and standardizing the work requirement for households seeking shopping letters at 10 hours per week. CityFHEPS provides rental assistance to individuals, families with children, adult families and pregnant women currently residing in New York City Department of Homeless Services (DHS) and NYC Human Resources Administration (HRA) shelters, as well as chronically street homeless individuals who meet certain eligibility criteria. CityFHEPS also assists certain households at risk of eviction. Since the implementation of City-funded rental assistance in 2014, nearly 150,000 New Yorkers in 63,000 households have been helped to move into permanent housing or remain stably housed. Currently, the CityFHEPS program alone supports 30,000 households by providing a rental subsidy.

#### **Background:**

In 2014 and 2015, the City launched various tenant-based rental assistance programs, including the Living in Communities (LINC), City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) and Special Exit and Prevention Supplement (SEPS) programs, to provide rental assistance for those in shelter or at risk of entering a City shelter.

In the fall of 2018, in order to more effectively and efficiently administer the City-funded rental assistance programs targeted at households in or at risk of entering shelter, HRA established the City Fighting Homelessness and Eviction Prevention Supplement (CityFHEPS), a single streamlined program that replaced the LINC I, II, IV and V programs, the SEPS program, and what remained of the LINC III and CITYFEPS programs. Since the implementation of streamlined CityFHEPS in 2018, the City has continued to expand and improve the CityFHEPS

program to help more New Yorkers gain access to rental subsidies, allowing them to move out of shelter and into permanent housing.

Currently, the City is in the midst of an unprecedented humanitarian crisis in which thousands of individuals in need of shelter are entering New York City from the southern border of the United States. This crisis has driven shelter capacity to a record low. In response to this emergency, the City has embarked on a herculean effort to provide temporary shelter to those in need who are found in its jurisdiction. As part of this response, DSS is amending the CityFHEPS rules to connect more households in need with rental assistance vouchers, while freeing urgently needed capacity within the NYC shelter system.

Specifically, the CityFHEPS rules are amended as follows:

- Eliminate the 90-day length of stay requirement for single adults and families.
- Reduce the number of hours that families are required to work to become eligible for CityFHEPS from 14 to 10 hours per week, and to implement a 10 hour per week work requirement for single adults. This change will create uniformity across populations in shelter.
- For households moving out of shelter into permanent housing, require that the household must not have resided in the residence to which they are moving at any point during the prior year.

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

New material is underlined.

Deleted material is [bracketed].

“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.

The New York City Human Resources Administration hereby amends Chapter 10 of Title 68 of the Rules of the City of New York which will read as follows:

Section 1. Section 10-04 of Title 68 of the Rules of the City of New York is amended to read as follows:

**§ 10-04 Initial Eligibility and Approval for Shelter Residents and Persons Who Are Street Homeless.**

- (a) A household [who] which is in an HRA or DHS shelter or is street homeless must meet the following requirements to be eligible to receive a shopping letter for CityFHEPS rental assistance under this subchapter:

(1) The household must have total gross income that does not exceed 200 percent of the FPL, except that a household that consists of a sole member 18 years of age or older may have a total gross income that exceeds 200 percent of the FPL if the sole member is employed at least 35 hours per week and earning the minimum wage pursuant to NY Labor Law 652 or Part 146 of Title 12 of the New York Codes, Rules and Regulations.

(2) If the household is not currently in receipt of PA, HRA may require the household to apply for any assistance available under Part 352 of Title 18 of the New York Codes, Rules and Regulations.

(3) Reserved.

(4) If a household is potentially eligible for any federal or State housing benefits, including Section 8 or the HRA HOME TBRA program described in 68 RCNY Ch. 9, at HRA's request, the household may be required to apply for such benefits and accept them if offered.

(5) The household must not be eligible for FHEPS.

(6) If any member of the household has been determined to be eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations, the household must not include the perpetrator of the domestic violence that resulted in such determination.

(7) If the household is currently in a DHS family shelter, the household must be eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations.

(8) The household must be street homeless, reside in a DHS shelter that has been identified for imminent closure, or belong to Group A or B below:

(A) *Group A*: A household will belong to Group A if it satisfies any of the criteria set forth below and either: (1) currently resides in a DHS shelter [and either has a qualifying shelter stay pursuant to 68 RCNY § 10-04(b) or is eligible for HRA shelter]; or (2) currently resides in an HRA shelter:

(i) The household [: (AA) includes a member who is under 18 years of age and (BB)] is collectively working at least [14] 10 hours per week in unsubsidized employment or in a qualifying subsidized employment program and can demonstrate income from such employment for the last 30 days. However, the Commissioner may waive the requirement that the household collectively work at least [14]10 hours per week for good cause where the household has a demonstrated, consistent work history and has experienced a recent loss in number of hours worked due to circumstances that are likely to be temporary;

(ii) [The household consists exclusively of members 18 years of age or older and can demonstrate income from unsubsidized employment or a qualifying subsidized employment program for the last 30 days;

(iii)]The household includes a member who receives federal disability benefits or receives a recurring monthly PA grant and has been determined by HRA to be potentially eligible for federal disability benefits based on their own documented disability;

[(iv)] (iii) The household includes a member who is 60 years of age or older; or

[(v)] (iv) The household includes a member 18 years of age or older who is exempt from PA work activities, pursuant to Section 385.2(b)(5) of Title 18 of the New York Codes, Rules and Regulations.

(B) *Group B*: A household will belong to Group B if it currently resides in an HRA or DHS shelter and satisfies any of the criteria set forth below:

(i) The household includes a veteran; or  
(ii) The household includes an individual who has been referred by a City agency through a CityFHEPS qualifying program and the Commissioner has determined that due to the particular circumstances of the household, CityFHEPS rental assistance is needed to abbreviate the household's stay in an HRA or DHS shelter.

(b) [Qualifying Shelter Stay and Limitations:

(1) *Qualifying Shelter Stay:* A household in a DHS family shelter will have a qualifying shelter stay for purposes of 68 RCNY § 10-04(a)(8)(A) if the household has resided in a DHS shelter for at least 90 days prior to certification, excluding gaps of up to ten calendar days. An individual in a DHS single adult shelter will have a qualifying shelter stay for purposes of 68 RCNY § 10-04(a)(8)(A) if the individual has resided in a DHS shelter for at least 90 of the last 365 days. Once a household has a qualifying shelter stay, it will not lose its eligibility for a shopping letter pursuant to 68 RCNY § 10-04(c) by moving from one type of shelter to another. Similarly, a household who has been street homeless will not lose its eligibility for a shopping letter by entering an HRA or DHS shelter.

(2) *Qualifying Shelter Stay Limitations:* The Commissioner may set a date by which qualifying shelter stays must commence, for purposes of 68 RCNY § 10-04(a)(8)(A), upon an evaluation of housing market conditions, shelter utilization rates, and the availability of funding, when the Commissioner determines that a limiting date is necessary to maintain the program's viability. The Commissioner may remove such a limiting date upon further review of housing market conditions, shelter utilization rates, and the availability of funding.

(c)] When a household has met the eligibility requirements set forth in 68 RCNY § 10-04(a), the Commissioner shall issue such household a shopping letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of 68 RCNY § 10-04(a) until the time of approval.

[(d)] (c) Once a household has received a CityFHEPS shopping letter, the household must meet the following additional conditions to be approved for CityFHEPS rental assistance:

(1) The household must have a lease for at least one year for a residence in New York City that has passed a safety and habitability assessment. The household must not have resided in such residence at any point during the prior year, except that the Commissioner, in the exercise of discretion, may allow a household to do so in extraordinary circumstances.

(2) If the household includes a person younger than 18 years of age, the lease or other rental agreement must be for an apartment.

(3) The rent for the unit must be reasonable in comparison to other comparable units in the area where the unit is located and must not exceed the maximum monthly rent, or in the case of a unit towards which an additional payment pursuant to 68 RCNY § 10-15(h) will be applied, must not exceed the regulatory rent.

(4) The household must be protected from rent increases for at least one year, except that if the unit is subject to government regulations with respect to allowable rents, rent increases authorized under such regulations will be permitted midyear.

(5) If the household is not currently in receipt of PA, the household must apply for any assistance available under Part 352 of Title 18 of the New York Codes, Rules and Regulations.

(6) All members of the household who are eligible for PA must be in receipt of PA and all members in receipt of PA must be in compliance with PA requirements.

[(e)] (d) At the time of approval, HRA will calculate the household's monthly rental assistance amount pursuant to 68 RCNY § 10-06 or 68 RCNY § 10-07, as applicable. Except as provided in 68 RCNY § 10-09, the monthly rental assistance amount will not change until renewal, regardless of changes in household composition, income, the maximum monthly rents or the actual rent for the CityFHEPS unit.

**Required Finding Pursuant to New York City Charter Section 1043(i)(1)**

IT IS HEREBY CERTIFIED that the immediate effectiveness of this emergency rule establishing changes to the CityFHEPS program is necessary to address the urgent need to relocate homeless individuals and families from Department of Homeless Services (DHS) shelters into stable, permanent housing. The City and the State of New York are in the midst of a humanitarian crisis. Large numbers of individuals and families seeking asylum in the United States have arrived and are continuing to arrive in the City in need of temporary housing assistance. Due to the number of recently arrived asylum seekers in New York City, the shelter system is experiencing a record high need for capacity. As of June 2, 2023, more than 72,000 asylum seekers have arrived in the City, and currently, more than 45,800 asylum seekers remain in locations provided by the City, with more arriving every day. Over the last year, the City has opened at least 135 emergency shelters run by DHS and approximately 21 other locations to provide temporary shelter or respite. The large number of arrivals has strained the City's capacity to provide a temporary place to stay for those who need it. This unprecedented crisis has required the City to take extraordinary measures to meet the immediate needs of the asylum seekers while continuing to serve the tens of thousands of people currently residing in DHS shelters.

In the current crisis, every free bed matters. While this rule change will not resolve the ongoing strain on the City's shelter system, it will facilitate a more expeditious exit from shelter and thereby free up additional space. The number of additional individuals who may access CityFHEPS vouchers through this emergency rulemaking may seem relatively small within the context of the crisis, but these modest steps can add up to significant strides in the City's overall response.

It is therefore necessary to act by emergency rulemaking so that the City can provide more New Yorkers with an opportunity to move into permanent housing, while freeing much needed capacity within DHS shelters.

The program established under the CityFHEPS rule allows individuals and families to rent apartments at competitive market-rate rents based on the annual New York City Housing Authority Section 8 Payment Standards. By eliminating the length of stay requirements in DHS shelters through this emergency rulemaking, additional households will be eligible to move out of shelter and into permanent housing. Delaying implementation of this rule pending non-emergency rulemaking would result in a prolonged unnecessary strain on the shelter system, which provides necessary services to homeless in New York City.

Pursuant to Section 1043(i)(1) of the Charter, the emergency rule will remain in effect for 60 days while HRA prepares a permanent rule.

IT IS THEREFORE HEREBY CERTIFIED that the immediate effectiveness of a rule providing for the elimination of the length of stay requirement for individuals and families in DHS shelters is necessary to address an imminent threat to a necessary service.

Dated: June 16, 2023

/s/ MOLLY WASOW PARK  
MOLLY WASOW PARK  
COMMISSIONER,  
NYC DEPARTMENT OF SOCIAL SERVICES

APPROVED:

/s/ ERIC ADAMS  
ERIC ADAMS, MAYOR