

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 allowing recipients of CityFHEPS rental assistance vouchers to use such vouchers for housing located not only within New York City, but also in any county or locality across New York State.

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

The Human Resources Administration is implementing further innovations to the City Fighting Homelessness and Eviction Prevention Supplement (CityFHEPS) rental assistance program that will immediately and significantly expand access to housing opportunities for New Yorkers with CityFHEPS housing vouchers. New York City continues to face a serious housing shortage and record-high shelter populations, with 113,000 people total in the City's care. CityFHEPS voucher holders will now be able to utilize their voucher to obtain permanent, affordable housing not only within New York City, but also in any county or locality across New York State.

Over the last decade, rents in NYC have risen precipitously, and the stock of low-rent housing has dropped to dismally low levels. According to the 2021 Housing and Vacancy Survey, the Citywide rental vacancy rate was 4.54%. Units available for low rents are extremely scarce, with vacancy rates even lower than the 4.54% Citywide rate. For example, units with rents of less than \$900 had a net rental vacancy rate of 0.86 percent, and among those with rents of \$900 to \$1,499 it was 0.93 percent. In contrast, among units with rents of \$1,500 to \$2,299 the net rental vacancy rate was 4.09 percent and among units with rents of \$2,300 or more it was 12.64%. Expanding the pool of affordable units that New York City voucher holders can shop for will allow more households currently in shelter to be stably housed. This change to the CityFHEPS rules provides additional housing mobility for voucher holders, giving them greater control over where they choose to move, live and work.

Additionally, the City is in the midst of an unprecedented humanitarian crisis in which thousands of individuals in need of shelter are crossing the border of the United States and coming to New York City. 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. Successfully connecting more households in need with rental assistance vouchers and permanent housing options will have the added benefit of freeing urgently needed capacity within the NYC shelter system.

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].

Section 1. Paragraph 7 of subdivision a of section 10-03 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

(7) The household must have a lease, other agreement, or regulatory right to rent, for at least one year, a residence in New York City or within New York State that has passed a safety and habitability assessment. 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, and the household must be protected from rent increases for at least a year, except that if the unit is subject to government regulations with respect to allowable rents, rent increases authorized under the applicable government regulations will be permitted midyear. If a household includes a person younger than eighteen years of age, the lease or other rental agreement must be for an apartment.

§ 2. Paragraph 1 of subdivision c of section 10-04 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

(1) The household must have a lease for at least one year for a residence in New York City or within New York State 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] move into such residence in extraordinary circumstances, including but not limited to where the family was evicted, constructively evicted, or otherwise forced to leave due to the condition of the unit, and the landlord has made all repairs to bring the apartment into compliance with applicable codes; where the eviction was from supportive housing and returning the tenant to the supportive housing unit is in the best interests of the household; or where the means of ingress and egress are accessible for a person with a disability and/or the apartment unit has structural accessibility features that comport with the needs of a person with mobility disabilities.

§ 3. Subdivision a of section 10-05 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

(a) Except as otherwise provided in 68 RCNY § 10-15(h), the maximum monthly rent for an SRO or apartment towards which CityFHEPS rental assistance under this subchapter may be applied will be set by HRA in accordance with Section 982.503 of Title 24 of the Code of Federal Regulations, at the payment standard adopted by the New York City Housing Authority. For residences outside of New York City, the maximum monthly rent will be set by HRA at the applicable local housing authority standard. When calculating CityFHEPS rental assistance

payment amounts, HRA will subtract from such maximum monthly rent a utility allowance set by HRA at the standard adopted by the New York City Housing Authority pursuant to Section 982.517 of Title 24 of the Code of Federal Regulations or, for residences outside of New York City, the utility allowance adopted by the applicable local housing authority. HRA will publish on its website the current CityFHEPS maximum monthly rents and utility allowance schedule.

§ 4. Section 10-07 of Chapter 10 of Title 68 of the Rules of the City of New York is amended by adding a new subdivision e, to read as follows:

(e) Notwithstanding anything to the contrary in this section, a CityFHEPS unit may not be a room where such unit is located outside of New York City.

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 October 1, 2023, more than 122,000 asylum seekers have arrived in the City, and currently, more than 63,000 asylum seekers remain in locations provided by the City, with more arriving every day. Over the last year, the City has opened at least 149 emergency shelters run by DHS, as well as 17 large scale humanitarian relief centers. 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.

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, affordable 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. Given the low supply of affordable housing stock in NYC, many voucher holders remain in shelter. By expanding the pool of affordable apartment to units

throughout New York State, this emergency rule will allow additional households to 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 and unnecessary strain on the shelter system, which provides necessary services to homeless individuals 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: October 3, 2023



MOLLY WASOW PARK
COMMISSIONER,
NYC DEPARTMENT OF SOCIAL SERVICES

APPROVED:



ERIC ADAMS, MAYOR