

Notice of Adoption of Amendments
to Chapter 10 of Title 68 of the Rules of the City of New York

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Commissioner of the New York City Human Resources Administration (HRA) pursuant to Section 603 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, that HRA has adopted the above final rule.

This rule was published as a proposed rule in the City Record on August 15, 2023, and a public hearing was held on September 15, 2023. HRA received and reviewed comments submitted.

Statement of Basis and Purpose

These rules make several changes to the CityFHEPS program by revising the eligibility requirements for a CityFHEPS voucher. On June 16th, 2023, Mayor Eric Adams signed an emergency rule amending Chapter 10 of Title 68 of the Rules of the City of New York, removing the CityFHEPS 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. These amendments to the CityFHEPS program are aimed at connecting more households in need with rental assistance vouchers, while freeing urgently needed capacity within the City's shelter system. Those changes will be made permanent through this rule amendment. 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 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.

In addition, this rule clarifies the definition of gross income to make clear that it excludes financial assistance received by individuals as part of their participation in a pilot program to study and evaluate the impact and potential benefits of direct cash transfers.

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 these rules.

New material is underlined.

Deleted material is [bracketed].

Section 1. Subdivision (s) of section 10-01 of Chapter 10 of Title 68 of the Rules of the City of New York is amended to read as follows:

(s) "**Gross income**" means the sum of: (1) earned income, as defined in Section 352.17(a) of Title 18 of the New York Codes, Rules and Regulations, except that it shall exclude income earned through SYEP; and (2) unearned income, as defined in Section 387.10(b)(3) of such title, except that it shall exclude PA and shall only include income that is regularly recurring. Third party contributions to the rent will not be counted as income. All other income deductions or exclusions, including those set forth in Sections 387.11 and 387.12 of Title 18 of the New York Codes, Rules and Regulations, shall not be applied when calculating a household's gross income. Any financial assistance received by individuals as part of their participation in a pilot program to study and evaluate the impact and potential benefits of direct cash transfers shall be exempt for the length of time the individual participates in the program, but no longer than sixty months.

§ 2. 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] that 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, 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.

(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.

FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

In accordance with Section 1043(f)(1)(d) of the New York City Charter, the New York City Human Resources Administration (“HRA”) has determined that there is a substantial need for the implementation of this rule amending the CityFHEPS program, as set forth in Chapter 10 of Title 68 of the Rules of the City of New York, immediately upon its final publication in the City Record, thereby waiving the requirement that thirty days elapse prior to the effective date of the rule.

The City and State of New York are in the midst of a humanitarian crisis. Large numbers of individuals and families seeking asylum in the United States 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. 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 City shelters.

In the current crisis, every free bed matters. These rule changes will not resolve the ongoing strain on the City’s shelter system, but the change to the CityFHEPS eligibility criteria will facilitate a more expeditious exit from shelter and thereby free up additional space. The City promulgated rules on an emergency basis to eliminate the 90-day length of shelter stay requirement for single adults and families seeking assistance through CityFHEPS and to adjust the number of hours that individuals and families are required to work. To ensure that these rules remain in effect, they must take effect immediately upon publication in the City Record.

Therefore, we find pursuant to section 1043(f)(1)(d) of the New York City Charter that there is a substantial need for this rule’s earlier implementation.



Eric Adams
NYC Mayor

11/8/2023

Date



Molly Wasow Park
NYC DSS Commissioner

10/31/23

Date