

NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed amendment to the Department of Homeless Services rules related to homeless shelters for single adults.

Date/Time: Monday, July 22, 2013, at 1:30PM

Location: 89-111 Porter Avenue, Brooklyn, New York 11237

Contact: Gloria Langlais
New York City Department of Homeless Services
33 Beaver Street, 17th Floor
New York, NY 10004
Phone: (212) 361-7993
Fax: (212) 361-8010

Proposed Rule Amendment

Pursuant to the authority granted to the Commissioner of the New York City Department of Homeless Services (DHS or the “Department”) by §§ 56, 61, and 134-a of the New York Social Services Law, §§ 350.4 and 351.1 of Title 18 of the New York Codes, Rules and Regulations, and §§ 612 and 1043(b) of the New York City Charter, the Department is proposing a rule related to homeless shelters for single adults. This rule was not included in the Department’s regulatory agenda because it was not anticipated at the time.

Instructions

- Prior to the hearing, individuals interested in pre-registering to speak at the hearing should notify Ms. Langlais by mail by 5:00 P.M. on **Thursday, July 18, 2013**. Please include a telephone number where you may be reached during business hours. Although day-of registration will be accepted at the door until 9:30 A.M., preference will be given to those who pre-register. Speakers will have five (5) minutes each.
- To request a sign language interpreter or other form of reasonable accommodation for disability at the hearing, please notify Ms. Langlais by phone or mail by 5:00 P.M. on **Thursday, July 18, 2013**.
- Prior to the hearing, individuals may submit written comments about the proposed amendment to Ms. Langlais by mail, fax, through email at publichearing@dhs.nyc.gov or online at NYC Rules at www.nyc.gov/nycrules, by 5:00 PM on **Monday, July 22, 2013**.

- Written comments and a summary of the oral comments received at the hearing will be available within a reasonable time after the hearing, between the hours of 9:00 A.M. and 5:00 P.M. at the office noted above.

STATEMENT OF BASIS AND PURPOSE

The Department of Homeless Services (“DHS” or the “Department”) provides temporary emergency shelter to homeless New York City residents in accordance with State and local law, implementing regulations, and court orders, with the goal of moving shelter residents back into permanent housing in the community as soon as possible.

DHS proposes to amend Title 31 of the Rules of the City of New York by adding Chapter 3, which pertains to single adults who return to shelter in the adult services system after an extended absence. Currently, if a single adult shelter client returns to the system within 365 days, the client must return to his or her official shelter (i.e., the shelter where he or she had been previously assigned), where he or she will receive a bed. If a client returns more than 365 days later, the client is sent to a single adult intake center to reapply for shelter, at which point he or she undergoes a new resource assessment and is assigned to a new official shelter.

Through years of experience and practice, DHS has found that many single adult shelter clients exit the system and return after an extended absence (a period of at least thirty consecutive days), but within 365 days. Although it may be beneficial under certain circumstances for some of these clients to return directly to their official shelters, DHS seeks to provide other clients who return after an extended absence with a new resource assessment to identify alternative housing options they may have identified, utilized, or secured during their absence, and to connect them to resources or benefits that may alleviate their need for shelter and help them avoid re-entry into the system. Such alternative housing options can provide clients with long term housing stability, and assist in seeking benefits, employment, or other social services in the community. Importantly, even if no alternatives are immediately available, or if a client chooses not to utilize those alternatives at that time, the resource assessment will provide helpful information to the client and shelter staff at the client’s official shelter placement for on-going case management work.

Considering the value of this assessment, the proposed Chapter 3 provides for referral of a single adult shelter client returning to shelter after an extended absence to a diversion office (located at a DHS single adult intake center) to participate in a Single Adult Resource Assessment (“Assessment”) conducted by diversion staff. This Assessment will determine where a client resided during his or her extended absence from the adult services system, identify alternative housing options, and connect the client to resources or benefits to avoid re-entry into shelter. If none of these options are available or if the client does not wish to utilize any available options, the client will be referred back to his or her official shelter in the adult services system.

The Department notes that it does not believe that requiring a client returning after an extended absence to participate in a resource assessment must be promulgated as a rule pursuant to the City Administrative Procedure Act (“CAPA”), and believes that it may implement such a procedure outside of CAPA.

However, in the exercise of caution and in light of the Court’s decision in *Callaban v. Carey* and *Council of the City of New York v. Department of Homeless Services of the City of New York*, 2012 N.Y. Misc. LEXIS 758 (Sup. Ct., N.Y. Co. 2012), the Department proposes to promulgate this procedure as a rule.

New material is underlined.

“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.

Chapter 3
Single Adult Homeless Shelter

§3-01 Single Adult Resource Assessment

(a) Definitions

- (1) Official shelter: The single adult shelter to which an adult shelter client has been assigned, following intake and assessment.
- (2) Extended absence: An exit from the single adult shelter system lasting at least 30 consecutive days.
- (3) Returnee: An adult shelter client who returns to a single adult shelter after an extended absence and within 365 days.
- (4) Single Adult Resource Assessment: An assessment to identify alternative housing options available to a Returnee and to connect a Returnee to resources or benefits to avoid re-entry into shelter.
- (5) Diversion services: Services offered at a single adult intake center directed at finding non-shelter housing alternatives and resources.
- (6) Diversion office: An office located at a single adult intake center that provides diversion services.

(b) Upon a Returnee's return to the adult shelter system, shelter staff must determine whether, based on the entirety of the Returnee's circumstances, the Returnee will return to his or her official shelter or be referred to a diversion office for a Single Adult Resource Assessment. Factors whose presence would allow the Returnee to return to his or her official shelter and not be referred for a Single Adult Resource Assessment include but are not limited to:

- (1) The Returnee has a mental or physical disability;
- (2) Either the Returnee, or the primary tenant of the residence where the Returnee had been living prior to returning to shelter, has been evicted;
- (3) A vacate order has been issued for the residence where the Returnee had been living during his or her extended absence;
- (4) The Returnee was recently discharged from a prison, hospital, residential treatment facility, or other institution;
- (5) The Returnee is a victim of domestic violence; and
- (6) The Returnee has been living on the street.

If one or more of these factors are present, the Returnee must be assigned a bed at his or her official shelter. If a bed at the official shelter is unavailable, the Returnee must be given alternate placement until a bed at the official shelter becomes available. If none of these factors are present, shelter staff must refer the Returnee to a diversion office for a Single Adult Resource Assessment.

(c) If shelter staff determines that the Returnee must be referred for a Single Adult Resource Assessment, the Returnee must appear in person at a diversion office. DHS must provide transportation services or MetroCards to transport the Returnee to a diversion office. No Returnee will be transported at a time, or in a manner, that would be unsafe for the Returnee due to illness or intoxication.

(d) Single Adult Resource Assessment.

(1) Upon the Returnee's arrival at a diversion office during regular business hours for conducting Single Adult Resource Assessments, diversion staff must conduct a Single Adult Resource Assessment with the Returnee.

(2) If the Returnee arrives at a diversion office after regular business hours for conducting Single Adult Resource Assessments, he or she must be temporarily assigned a bed and provided meals and shower facilities at the diversion office until a Single Adult Resource Assessment can be conducted the next business day.

(e) Following the Single Adult Resource Assessment, if the Returnee does not have an alternative housing option, or has such an option but does not wish to return to or utilize the option, he or she must be referred back to his or her official shelter as soon as a bed is available. If a bed at the official shelter is unavailable, the Returnee must be given alternate placement until a bed at the official shelter becomes available.

(f) For a Returnee who is not referred to a diversion office for a Single Adult Resource Assessment, diversion staff may, at their discretion, conduct such an assessment over the phone with the Returnee at his or her official shelter.

**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: Diversion Services for Returnees

REFERENCE NUMBER: 2013 RG 048

RULEMAKING AGENCY: New York City Department of Homeless Services

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
Acting Corporation Counsel

Date: June 18, 2013

**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: Diversion Services for Returnees

REFERENCE NUMBER: DHS-2

RULEMAKING AGENCY: Department of Homeless Services

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/ Ruby B. Choi
Mayor's Office of Operations

June 18, 2013
Date