

NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The New York City Human Resources Administration (HRA) proposes to amend Title 68 of the Rules of the City of New York to include a new Chapter 10, which would establish a new City rental assistance program entitled CITYFHEPS. This new program, which would serve both families and individuals, would replace a number of other City rental assistance programs and align City rental assistance more closely with the existing State Family Homelessness & Eviction Prevention Supplement (FHEPS) program.

When and where is the hearing? The New York City Human Resources Administration will hold a public hearing on the proposed rule. The public hearing will take place at 9:30a.m. on August 21, 2018. The hearing will be held at 125 Worth Street, 2nd Floor, in Manhattan. Please enter on Lafayette Street.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to HRA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to NYCRules@hra.nyc.gov. Please include "CITYFHEPS" in the subject line.
- **Mail.** You can mail comments to:

HRA Rules
150 Greenwich Street, 38th Floor
New York, NY 10007

Please make clear that you are commenting on the CITYFHEPS rule.

- **Fax.** You can fax comments to 917-639-0413. Please include "CITYFHEPS" in the subject line.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 929-221-6690. You can also sign up in the hearing room before the hearing begins on August 21, 2018. You can speak for up to three minutes.

Is there a deadline to submit comments? The deadline to submit comments is August 21, 2018.

What if I need assistance to participate in the hearing?

You must tell us if you need a foreign language interpreter, a sign language interpreter, or a reasonable accommodation of a disability at the hearing. You can tell us by mail at the address above. You may also tell us by telephone at 929-221-6690. Advance notice is requested to allow sufficient time to make arrangements. Please tell us by August 14, 2018.

This location has the following accessibility option(s) available: This location is accessible to individuals using wheelchairs or other mobility devices. For additional requests regarding accessibility please contact HRA Rules by mail or telephone as described above by August 14, 2018.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules 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 concerning the proposed rule will be available to the public on HRA's website.

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

Where can I find HRA's rules? HRA's rules are in title 68 of the Rules of the City of New York.

What laws 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.

Statement of Basis and Purpose of Rule

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

Background

In September 2014, the City launched the Living in Communities (LINC) I, II and III rental assistance programs, targeting families with children in New York City Department of Homeless Services (DHS) and New York City Human Resources Administration (HRA) shelters. These were followed by the LINC IV and V programs for single adults and adult families in shelter or at risk of entry to shelter, the LINC VI program, which provides rental assistance to households in shelter who are able to move in with family and friends, the City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) programs, the Special Exit and Prevention Supplement (SEPS) program and the HRA HOME Tenant-Based Rental Assistance Program (HRA HOME TBRA). In total, these programs, together with other City rehousing initiatives, have helped over 87,000 people exit or avoid entering a City shelter.

In September 2017, the court in *Tejada v. Roberts*, Index No. 453245/2015 (Sup. Ct., NY County), so-ordered a settlement that paved the way for the New York State Family Eviction Prevention Supplement (FEPS) program to be replaced by an expanded program with higher rent supplement levels called the Family Homelessness & Eviction Prevention Supplement (FHEPS) program. Many of the families in HRA's CITYFEPS program and most of the families in the LINC III program were transferred to FHEPS in December 2017.

In order to more effectively and efficiently administer the various City-funded rental assistance programs targeted to households in or at risk of entry to shelter and align City rental assistance more closely with State FHEPS, HRA now proposes CITYFHEPS, a single streamlined program that will replace the existing LINC I, II, IV and V programs, the SEPS program, and what remains of the LINC III and CITYFEPS programs. HRA is working to combat source of income discrimination and resistance to subsidized vouchers in the housing market, and a streamlined program will advance this goal.

Households not currently receiving other City rental assistance who meet the initial eligibility requirements of CITYFHEPS will have the opportunity to secure a unit with CITYFHEPS as of the effective date of this rule. Households who are currently receiving other City rental assistance will be transferred to CITYFHEPS and the old programs will be phased out, with no

new households enrolling in those programs after the effective date of this rule.¹ With the exception of households currently participating in LINC VI, households participating in the LINC, CITYFEPS and SEPS programs will be transferred to the CITYFHEPS program so long as they are income-eligible and continue to reside in the unit towards which their LINC, CITYFEPS or SEPS rental assistance is currently being applied (or they have been approved by HRA to move to a new unit).²

Summary of Provisions

The new chapter 10 will accomplish the following:

- Set forth definitions relevant to the administration of the new CITYFHEPS program.
- Set forth eligibility requirements for city residents. These are different depending on (among other things) whether a household is in shelter.
- Allow for HRA to designate “CITYFHEPS qualifying programs” from which it will accept referrals to avert entry to shelter or shorten the stay of a household already in shelter.
- Set forth the maximum monthly rents and rental assistance payment amounts for various types of housing. The maximum apartment rents will be indexed to any annual rent increases set by the NYC Rent Guidelines Board.
- Set forth renewal criteria beyond the first year of the program, such as allowing renewal beyond five years under certain circumstances.
- Allow adjustments to be made to the payment amounts when circumstances have changed.
- Provide for an orderly transition from the existing rental assistance programs (LINC, SEPS, and CITYFEPS) to the new CITYFHEPS.
- Set forth landlord and participant requirements for continued participation in the program.
- Set forth the review conference and appeal process, and various additional miscellaneous matters, such as the fact that HRA will not maintain a waitlist.

New material is underlined.

¹ As the programs are phased out over the course of the next year, the rules concerning the old programs will be repealed.

² Households currently participating in LINC VI will continue in that program for so long as they remain eligible. However, no new households will be enrolled in LINC VI. Instead, households able to move in with host families will have the opportunity to apply to a similar program, called Pathway Home, that HRA is concurrently proposing in a different rule.

The New York City Human Resources Administration proposes to amend Title 68 of the Rules of the City of New York to include a new chapter 10, which would read as follows:

§ 10-01 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

(a) “ACS” means the New York City Administration for Children’s Services.

(b) An “adult household member” is a household member aged at least 21 years of age, or if no household member is at least 21 years of age, aged 18 to 20.

(c) An “apartment” means a private residence other than an SRO.

(d) “CITYFEPS” means the rental assistance programs established pursuant to Subchapter A of Chapter 8 of this title.

(e) “CITYFHEPS” means the CITYFHEPS Program described in this chapter.

(f) A “CITYFHEPS qualifying program” is a City program that the Commissioner has designated as a program from which HRA will accept referrals for CITYFHEPS to avert entry to an HRA or DHS shelter or abbreviate a stay in an HRA or DHS shelter. CITYFHEPS qualifying programs include the following, in addition to other programs that the Commissioner may designate in the future: (1) referrals from ACS to facilitate an ACS plan for family reunification, preservation or independent living; (2) referrals from the three-quarter housing task force; (3) referrals from DYCD; or (4) referrals from the New York City Department of Correction.

(g) “CITYFHEPS rental assistance payments” mean rent payments made pursuant to this chapter.

(h) A “CITYFHEPS unit” is a residential unit to which CITYFHEPS rental assistance payments are being applied pursuant to this chapter.

(i) The “Commissioner” means the Commissioner of DSS or the Commissioner’s designee.

(j) “DHS” means the New York City Department of Homeless Services.

(k) A “DHS family shelter” is a shelter for families with children or adult families operated by or on behalf of the DHS.

(l) A “DHS single adult shelter” means a shelter for single adults operated by or on behalf of DHS.

(m) “DYCD” means the New York City Department of Youth and Community Development.

(n) “Earned income” is defined and computed as set forth in Section 352.17 of Title 18 of the New York Codes, Rules and Regulations, except that it does not include income earned through participation in the JTP Program and SYEP Program, defined in subdivisions (v) and (ss) of this section.

(o) “Federal disability benefits” mean social security disability insurance benefits under Title II of the federal Social Security Act, supplemental security income under Title XVI of the federal Social Security Act, compensation for a disability resulting from a line-of-duty injury or disease pursuant to Subchapter II or Subchapter IV of Chapter 11 of Part II of Title 38 of the United States Code, or a non-service-connected disability pension pursuant to Subchapter II of Chapter 15 of Part II of the United States Code.

(p) “FHEPS” means the New York State Family Homelessness and Eviction Prevention Supplement program.

(q) “FPL” means the federal poverty level as established annually by the United States Department of Health and Human Services.

(r) “Gross income” means the sum of earned income and unearned income, as defined in subdivisions (nn) and (vv) of this section. Income deductions, including those set forth in Section 387.12 of Title 18 of the New York Codes, Rules and Regulations, shall not be applied when calculating a household’s gross income.

(s) The “household” means the individual or individuals residing or intending to reside together in the CITYFHEPS unit.

(t) “HRA” means the New York City Human Resources Administration.

(u) An “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.

(v) The “JTP” means the Job Training Program administered by HRA in which City agencies provide PA recipients with paid employment experience and career development.

(w) “LINC VI” means the rental assistance program established pursuant to subchapter C of Chapter 7 of this title.

(x) A “LINC certification letter” is a certification letter issued pursuant to Chapter 7 of 68 of the Rules of the City of New York.

(y) The “LINC programs” mean the programs described in Subchapters A and B of Chapter 7 of this title. (p) A “primary tenant” is the person whose name is on the lease or who has the primary responsibility for payment of the monthly rent for a residence.

(z) The “maximum monthly rent” means an amount determined pursuant to section 10-05 of this chapter that the rent for a CITYFHEPS unit cannot exceed during the first year of the rental agreement and from which the CITYFHEPS rental assistance payment amount is calculated.

(aa) The “maximum PA shelter allowance” means the maximum monthly shelter allowance for each PA family size in accordance with the schedules set forth at Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations.

(bb) An “NPA member” refers to an individual who is a member of the CITYFHEPS household but is not a member of the PA household for reasons other than pursuant to Section 349.3 of Title 18 of the New York Codes, Rules and Regulations.

(cc) The “New York City Department of Social Services” or “DSS” means the entity consisting of HRA and DHS.

(dd) “PA” means public assistance 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.

(ee) The “PA household” refers to the members of the household who apply and are accepted for PA benefits.

(ff) “Pathway Home” means the rental assistance program established by Chapter 11 of this title.

(gg) A “primary tenant” is the person whose name is on the lease or who has the primary responsibility for payment of the monthly rent for a residence.

(hh) A “program participant” means an individual who has entered into a lease for a CITYFEPS unit and has not been terminated from the program.

(ii) A “qualifying City rental assistance program” means the LINC, SEPS, or CITYFEPS rental assistance program.

(jj) A “qualifying subsidized employment program” means the SET Program, the JTP Program, or such other subsidized employment program that the Commissioner may designate as a qualifying program in the future.

(kk) A “room” means an individual room within an apartment.

(ll) A “rent-controlled apartment” means a housing accommodation for which the maximum rent is established pursuant to Chapter 3 of Title 26 of the Administrative Code of the City of New York.

(mm) “SEPS” means the rental assistance program established pursuant to Subchapter B of Chapter 8 of this title.

(nn) The “SET Program” means the Shelter Exit Transitional Jobs Program jointly administered by HRA and DHS to help DHS shelter clients obtain employment and move into permanent housing.

(oo) A “shopping letter” is a letter provided to a household to assist it in its housing search that identifies the program for which HRA has found such household potentially eligible and the maximum rent.

(pp) An “SRO” is a single room occupancy unit as defined in subdivision 16 of section 4 of Article 1 of the New York Multiple Dwelling Law.

(qq) “Street homeless” means individuals who: (1) are living on the street or in a place not meant for human habitation and have received case management services for at least 90 days from a DHS contracted outreach provider; (2) have received case management services for at least 90 days from a DHS contracted provider at a drop in center or transitional housing setting; or (3) received case management services from a DHS contracted outreach provider, while living on the street or in a place not meant for human habitation, or at a drop in center or transitional housing setting, were placed in permanent housing and currently receive aftercare services.

(rr) “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).

(ss) The “SYEP Program” means the Summer Youth Employment Program administered by DYCD to provide New York City residents between the ages of fourteen and twenty-four with opportunities for paid summer employment.

(tt) The term “three-quarter housing task force” shall have the same meaning as that term is used in Section 1(a) of Local Law 13 of 2017. (aa) An “apartment” means a private residence other than an SRO.

(uu) “Turning the Tide on Homelessness in New York City” is a publication issued in February 2017 by Mayor de Blasio, Deputy Mayor for Health and Human Services Herminia Palacio and Commissioner Steven Banks. The publication sets forth a comprehensive borough-based plan to reduce the footprint of New York City’s homeless shelters, transform the City’s approach to providing shelter, and drive down the population of homeless New Yorkers relying on shelter through prevention, street homelessness, and permanent housing programs.

(vv) “Unearned income” is defined and computed as set forth in Section 387.10 of Title 18 of the New York Codes, Rules and Regulations, except that it shall only include such income that is regularly recurring. Any third-party contributions given to the household for the purpose of paying a portion of the household’s rent shall not be counted as income.

(ww) “Unsubsidized employment” means unsubsidized employment as that term is used in New York Social Services Law § 336(1)(a).

(xx) A “veteran” is a person who has served in the armed forces of the United States.

§ 10-02 Administration of the CITYFHEPS Program

HRA shall administer the CITYFHEPS Program and shall make eligibility determinations in accordance with this subchapter.

§ 10-03: Initial Eligibility, Application and Approval for City Residents Who Are Not in an HRA or DHS Shelter or Street Homeless

(a) A household that is not street homeless or in an HRA or DHS shelter must meet the following requirements to be eligible for an initial year of CITYFHEPS rental assistance:

(1) The household must have total gross income that does not exceed 200 percent of FPL.

(2) 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 Code of Rules and Regulations that HRA has determined the household may be eligible for.

(3) All members of the household who are eligible for PA must be in receipt of PA.

(4) If HRA identifies a household as potentially eligible for any federal or State housing benefits, including Section 8 or HRA HOME TBRA pursuant to Chapter 9 of this title, the household must apply for such benefits and accept them if offered.

(5) The household must not be eligible for FHEPS and, unless it meets the requirements of section 10-08(d) of this chapter, must not have previously received CITYFHEPS rental assistance.

(6) The household must satisfy any of the criteria below:

(A) The household has been determined by HRA to be at risk of homelessness and includes a veteran.

(B) Within the last twelve months, the household was evicted from or lived in a residence within the City of New York that was or is the subject of an eviction proceeding or that the household was or is required to vacate as a result of an 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; and either

(i) is in receipt of Adult Protective Services under Section 473 of the New York Social Services Law or a community guardianship program under Section 473-d of the New York Social Services Law;

(ii) will be using CITYFHEPS to preserve a rent-controlled apartment; or

(iii) has previously resided in a DHS shelter.

(C) The household includes an individual who has been referred by another 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 avert entry to a DHS shelter.

(D) The household is in receipt of an unexpired LINC certification letter or a SEPS or CITYFEPS shopping letter issued by HRA or DHS and has not had a change in circumstance since the issuance of the letter that would have rendered them ineligible for assistance under Chapter 7 or 8 of Title 68 of the Rules of the City of New York. A household may not qualify for CITYFHEPS rental assistance under this subparagraph if: (1) more than 120 days have passed after the effective date of this rule or (2) the household is eligible for FHEPS.

(E) The household is currently in receipt of LINC VI or Pathway Home and meets the criteria set forth in section 10-04(a)(8)(A)(i),(ii), (iii), (iv) or (v) or 10-04(a)(8)(B)(i) or (iii) of this chapter.

(7) The household must have a lease or other agreement to rent, for at least one year, a residence in New York City that has passed a safety and habitability assessment. The rent for the residence must not exceed the maximum monthly rent and must be protected from rent increases for at least a year, except that, if the unit is a rent-stabilized or rent-controlled apartment where the household resided immediately prior to receiving CITYFHEPS rental assistance, midyear rent increases authorized under the rent-stabilization or rent control laws, as applicable, will be permitted. If a household includes a person younger than eighteen years of age, the lease or other rental agreement must be for an apartment.

(b) Applications must be submitted on a form and in a format established by HRA.

(c) At the time of approval, HRA will calculate the household's CITYFHEPS rental assistance payments pursuant to section 10-06 or 10-07 of this chapter, as applicable. Except as provided in section 10-09 of this chapter, the CITYFHEPS rental assistance payments will not change during the household's first year of the program, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CITYFHEPS unit.

§ 10-04: Initial Eligibility, Certification and Approval for Shelter Residents and Persons Who Are Street Homeless

(a) A household who is in an HRA or DHS shelter or is street homeless must meet the following requirements to be eligible to receive a certification letter for CITYFHEPS rental assistance:

(1) The household must have total gross income that does not exceed 200 percent of the FPL.

(2) 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 Code of Rules and Regulations that HRA has determined the household may be eligible for.

(3) All members of the household who are eligible for PA must be in receipt of PA.

(4) If HRA identifies a household as potentially eligible for any federal or State housing benefits, including Section 8 or HRA HOME TBRA, the household must 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 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 has a qualifying shelter stay; or (2) currently resides in an HRA shelter:

(i) The household: (AA) includes a person who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations and (BB) is collectively working at least 30 hours per week in unsubsidized

employment or in a qualifying subsidized employment program and can demonstrate earned income from such employment for at least 30 days prior to certification. However, the Commissioner may waive the requirement that the household collectively work at least 30 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 adult household members and can demonstrate earned income from unsubsidized employment or a qualifying subsidized employment program for at least 30 days.

(iii) The head of household 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) The head of household is 60 years of age or older; or

(v) The head of household is exempt from PA work activities pursuant to Section 385.2(b)(5) of Title 18 of the New York Code of 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.

(ii) The household resides in a DHS shelter that has been identified for imminent closure.

(iii) The household is in receipt of an unexpired LINC certification letter or a SEPS or CITYFEPS shopping letter issued by HRA or DHS and has not had a change in circumstance since the issuance of the letter that would have rendered them ineligible for assistance under Chapter 7 or 8 of Title 68 of the Rules of the City of New York. A household may not qualify for CITYFEPS rental assistance under this subparagraph if: (1) more than 120 days have

passed after the effective date of this rule or (2) the household is eligible for FHEPS.

(iv) The household includes an individual who has been referred by another 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 resident of a DHS family shelter will have a qualifying shelter stay for purposes of section 10-04(a)(8)(A) if the household has resided in an HRA or DHS shelter for at least 90 days prior to certification, excluding gaps of up to ten calendar days. A resident of a DHS single adult shelter will have a qualifying shelter stay for purposes of section 10-04(a)(8)(A) if the individual has resided in a City shelter for at least 90 of the 365 days prior to certification. Once a household has a qualifying shelter stay, it will not lose its eligibility for a certification letter pursuant to subdivision (c) of this section by moving from one type of shelter to another. Similarly, a household who has been street homeless will not lose its eligibility for a certification 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 section 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 subdivision (a) of this section, HRA shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of paragraph (a) of this subdivision until the time of approval.

(d) Once a household has received a CITYFHEPS certification letter, the household must have a lease or other agreement to rent, for at least one year, a residence in New York City that has

passed a safety and habitability assessment. The rent for the unit must not exceed the maximum monthly rent and 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

(e) At the time of approval, HRA will calculate the household's monthly rental assistance amount pursuant to section 10-06 or 10-07 of this chapter, as applicable. Except as provided in section 10-09 of this chapter, the monthly rental assistance amount will not change during the first year of the program, regardless of changes in household composition, income, the maximum monthly maximum rents or the actual rent for the CITYFHEPS unit.

§ 10-05 Maximum Monthly Rents

(a) Except as provided in subdivision (b) of this section, the maximum monthly rent for an apartment towards which CITYFHEPS rental assistance may be applied during the first year of the rental agreement must not exceed the amounts in the table below:

<u>Maximum rents for apartments</u>										
<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>9</u>	<u>10</u>
<u>Maximum Rent</u>	\$1,246	\$1,303	\$1,557	\$1,557	\$2,010	\$2,010	\$2,257	\$2,257	\$2,600	\$2,600

(b) With regard to households consisting of five or more individuals, the Commissioner may exercise discretion to determine that current market conditions make it unlikely that certain households will be able to secure housing within the next ninety days and increase the maximum monthly rents for such households by up to 30%.

(c) The maximum monthly rent for an SRO towards which CITYFHEPS rental assistance may be applied during the first year of the rental agreement is \$1047.

(d) The maximum monthly rent for a room towards which CITYFHEPS rental assistance may be applied during the first year of the rental agreement is \$800. For room rentals, it is further provided that:

- (1) Where the rental agreement is with a primary tenant who receives PA, the household's monthly rent cannot exceed the difference between the primary tenant's rent obligation to the landlord and the primary tenant's shelter allowance under Section 352.3 of Title 18 of the New York Codes, Rules and Regulations at the time of the effective date of the rental agreement.
- (2) No separate room within a rent-stabilized or rent-controlled apartment may be rented directly from the landlord. If a room in a rent-stabilized apartment is rented from a primary tenant, the household's monthly rent cannot exceed the household's proportionate share of the rent under Section 2525.7 of Title 9 of the New York Code of Rules and Regulations. If a room in a rent-controlled apartment is rented from a primary tenant, the household's rent cannot exceed the amount the primary tenant is being charged by the landlord.

(e) The amounts set forth in subdivisions (a) and (b) of this section will be indexed to any annual rent adjustments for one-year apartment lease renewals set by the New York Rent Guidelines Board that take effect after the effective date of this rule.

(f) Heat, hot water, electricity and, if the stove is not electric, cooking gas, must be included in the rent for an SRO or a room.

§ 10-06: Calculation of CITYFHEPS Rental Assistance Payment Amount – Apartments and SROs

(a) Where the CITYFHEPS unit is an apartment or SRO, the monthly CITYFHEPS rental assistance payment amount will equal the actual monthly rent for the CITYFHEPS unit, up to the maximum monthly rent, minus the base program participant contribution, as calculated pursuant to subdivisions (b) and (c) of this section. For purposes of this subdivision and calculating the CITYFHEPS rental assistance payment amount, a household of one who has transferred from LINC IV to CITYFHEPS will be treated as a household of two.

(b) The base program participant contribution is calculated as follows:

- (1) Where no members of the household receive PA, the base program participant contribution is 30 percent of the household's total monthly gross income at the time of approval or renewal. However, if at renewal, the household reports no income, the base

program participant contribution will equal the maximum shelter allowance for the household size.

- (2) Where the household includes one or more members receiving PA, the base program participant contribution is the sum of the following: (A) 30 percent of the PA household's total monthly gross income at the time of approval or renewal, or the maximum monthly PA shelter allowance for the total number of PA household members, whichever is greater; and (B) 30 percent of the monthly gross income of any NPA members.

(c) Except as provided in section 10-09, the CITYFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rent, or the actual rent for the CITYFHEPS unit.

(d) Upon approval of a CITYFHEPS unit, HRA shall pay to the landlord the first month's rent in full and the CITYFHEPS rental assistance payments for the next three months. Thereafter, HRA shall pay the CITYFHEPS rental assistance payments directly to the landlord each month as long as the household remains eligible and funding for the program remains available, except that HRA may in its discretion pay additional months of CITYFHEPS rental assistance payments in advance where needed to address the goals set forth in the plan entitled Turning the Tide on Homelessness in New York City.

§ 10-07: Calculation of CITYFHEPS Rental Assistance Payment Amount – Rooms

(a) Where the CITYFHEPS unit is a room, the household's base program participant contribution shall be the greater of the household's actual shelter allowance at the time of approval or \$50 and, except as provided in subdivision (c) of this section with respect to the household's first four months in the CITYFHEPS rental assistance program, the monthly CITYFHEPS rental assistance payment amount will equal the actual monthly rent for the CITYFHEPS unit, up to \$800, minus such base program participant contribution.

(b) Except as provided in section 10-09 of this chapter, the CITYFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CITYFHEPS unit.

(c) Upon approval of a CITYFHEPS unit, HRA shall pay to the landlord the first four months' rent in full, except that if the household is receiving a shelter allowance, HRA shall pay the first month's rent in full and the CITYFHEPS rental assistance payments for the next three months. Thereafter, HRA shall pay the CITYFHEPS rental assistance payments directly to the landlord

each month as long as the household remains eligible and funding for the program remains available.

§ 10-08: Renewals after the First Year

(a) Subject to the availability of funding, a household receiving CITYFHEPS rental assistance will receive four annual renewals of such assistance if it meets the following continued eligibility requirements:

(1) The household's total gross income does not exceed 250 percent of FPL;

(2) The household is in substantial compliance with program requirements; and

(3) The household continues to reside in the CITYFHEPS unit for which they were initially approved or the Commissioner has approved a move to a new unit pursuant to section 10-10 of this chapter.

(b) Where a household is not in substantial compliance with program requirements, the Commissioner in the exercise of discretion may renew the household's participation in the CITYFHEPS program if the household establishes good cause for failure to comply with program requirements, consistent with Section 351.26 of Title 18 of the New York Code of Rules and Regulations.

(c) Subject to the availability of funding, households receiving CITYFHEPS rental assistance will continue to receive additional annual renewals after their fifth year in the CITYFHEPS rental assistance program if they continue to meet the requirements of subdivision (a) of this section and if, at the time of renewal, one of the following criteria are met:

(1) The head of household is 60 years of age or older.

(2) The head of household:

(A) receives federal disability benefits; or

(B) receives a recurring monthly PA grant and has been determined by the Commissioner to be potentially eligible for federal disability benefits based on their own documented disability.

(3) There is good cause for renewal as long as the household maintains eligibility.

(d) Subject to the availability of funding, if a household is not renewed for CITYFHEPS, it may be restored within one year of termination if the household meets CITYFHEPS renewal requirements at the time it applies for restoration. If more than one year has passed since termination, or if the household has been terminated from CITYFHEPS after receiving CITYFHEPS rental assistance for at least five years, the household may have its CITYFHEPS restored only for good cause.

(e) If a household has transferred to CITYFHEPS pursuant to section 10-11 of this chapter or has transferred from the LINC VI or Pathway Home programs, the time the household participated in the LINC, LINC VI, CITYFEPS, SEPS or Pathway Home programs shall count towards the five year limit set forth in subdivision (a) of this section, except that, for households transferring from CITYFEPS, LINC VI or Pathway Home less than ten months after the start of the household's current year of participation in such programs, the household's current year in such programs shall be disregarded. However, if the CITYFHEPS rental assistance payments begin ten months or more after the start of the household's current year of participation in CITYFEPS, LINC VI or Pathway Home, then the household's current year of participation in such programs shall be counted as a full year.

(f) The Commissioner will determine a household's eligibility for renewal at the end of each year of the household's participation in the program, subject to the availability of funding. Prior to annual renewal, the Commissioner will recalculate the household's CITYFHEPS rental assistance payments pursuant to section 10-06 or 10-07 of this chapter, as applicable. Except as provided in section 10-09 of this chapter, the CITYFHEPS rental assistance payments will not change during the one-year renewal period, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CITYFHEPS unit.

(g) Absent extraordinary circumstances, renewals will not be available to households under subdivision (c) of this section who have not complied with their obligations pursuant to section 10-12(e) of this chapter. The Commissioner will consider the following factors in determining extraordinary circumstances: health and mental health challenges, department of social services errors, effort to cure the error, or other circumstances beyond the control of the household.

§ 10-09 Adjustments to CITYFHEPS Rental Assistance Payment Amount, Discontinuance of Rental Assistance Payments, or Program Termination Prior to Renewal

(a) At the household's request, where the household's income has decreased prior to renewal, the Commissioner will recalculate the CITYFHEPS rental assistance payment amount in accordance with section 10-06 or 10-07 of this chapter, as applicable.

(b) The Commissioner may discontinue CITYFHEPS rental assistance payments if:

- (1) the household leaves the CITYFHEPS unit;
- (2) the landlord fails to comply with requirements set forth at section 10-14 of this chapter, whereupon the program participant may be granted approval to move pursuant to section 10-10 of this chapter;
- (3) the household's participation in CITYFHEPS is terminated, and payments are not continued pursuant to section 10-13(e).

(c) A household's participation in the CITYFHEPS Program may be terminated prior to renewal where the Commissioner determines that the program participant has failed or refused without good cause to comply with requirements set forth in section 10-12 of this chapter.

§ 10-10 Moves.

(a) A household participating in the CITYFHEPS Program may not move to a new residence and maintain eligibility for the CITYFHEPS Program except with the approval of the Commissioner. The household must obtain such approval prior to moving to a new residence, provided that the Commissioner may consider a request for approval made after the move if a household is unable to obtain such approval prior to the move due to circumstances beyond the household's control.

(b) The Commissioner shall grant approval for a move if the household is moving from a room to an apartment, unless the household is breaking a lease for the room, in which case the household must establish either good cause for the move or that the landlord is willing to release the program participant from the lease. In all other situations, the Commissioner shall grant approval for a move from one residence to another residence only upon a showing by the household that there is good cause for the move. If the requested move is to a residence with a higher rent than the rent for the current residence, approval will also be subject to the availability of funding.

(c) If the Commissioner has approved a move to a new CITYFHEPS unit, the Commissioner shall recalculate the monthly program participant contribution and monthly CITYFHEPS rental assistance payment amount, and those amounts shall not change for one year from the effective date of the rental agreement for the new CITYFHEPS unit, except as provided in section 10-09 of this chapter. If the effective date of the rental agreement for the new CITYFHEPS unit is not more than ten months after the start of the household's current year of participation in the program, then the household's current year in the CITYFHEPS Program shall begin anew on the effective date of such rental agreement. If the effective date of the rental agreement for the new residence is more than ten months after the start of the household's current year in the program and the household is eligible for renewal in the CITYFHEPS Program, then the household's renewal period shall begin on the effective date of such rental agreement.

§ 10-11 Transfer of Existing LINC, SEPS, and CITYFEPS Clients to CITYFHEPS

(a) The Commissioner shall transfer all households in a qualifying City rental assistance program to CITYFHEPS, provided the household has total gross income that does not exceed 200 percent of FPL and the household continues to reside in the unit for which they have been receiving rental assistance or the Commissioner has approved a move to a new unit pursuant to section 10-10 of this chapter. For households participating in the LINC and SEPS programs, the transfer shall take effect on the date that the household's first renewal in the qualifying City rental assistance program following the effective date of this rule would otherwise have occurred. For households participating in the CITYFEPS program, the transfer shall take place no later than one year after the effective date of this rule.

§ 10-12 Program Participant Requirements

(a) The household must:

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

(2) provide supporting documentation as necessary to verify eligibility and the information needed to determine the CITYFHEPS rent supplement amount, maximum monthly rent, and any required contributions by household members.

(b) The household must agree to have its CITYFHEPS rent supplement paid directly to the landlord.

(c) All members of the household who are eligible for PA must be in receipt of PA.

(d) If the Commissioner identifies a household as potentially eligible for any federal or State housing benefit, including Section 8 or FHEPS, the household must apply for such benefits and accept them if offered.

(e) The household must pay to the landlord each month the difference between the CITYFHEPS rental assistance amount and the household's rent, minus any shelter allowance and any third party contributions actually paid to the landlord and, if the household falls behind in the rent, must promptly report any arrears to the Commissioner.

(f) The program participant must promptly notify the Commissioner if the household moves out of the CITYFHEPS unit.

(g) The program participant must promptly notify the Commissioner if the program participant is served with eviction papers.

(h) The household must file for all work supports for which the household is entitled. These may include public benefits and tax credits, such as the Earned Income Tax Credit (EITC), the Child Tax Credit (CTC) and the Child Care Tax Credit (CCTC).

(i) The program participant must seek all appropriate services as necessary to preserve the program participant's tenancy, including, but not limited to, job placement, landlord-tenant mediation, financial counseling and anti-eviction services. Program participants can receive assistance or referrals for these services from their designated service provider or local HomeBase office.

(j) A program participant renting a room or an SRO must promptly notify the Commissioner if it intends to add a person younger than eighteen years of age to the household and request approval to move pursuant to section 10-10.

(k) The household cannot include the perpetrator of the domestic violence that led to the household's entry to HRA shelter or the certification that the family was eligible for HRA shelter.

(l) The program participant must otherwise cooperate fully with the City in its administration of the CITYFHEPS Program.

§ 10-13 Agency Review Conference and DSS Administrative Appeal Process.

(a) Right to DSS Administrative Review.

An applicant, shelter resident, current or former program participant, or household member may request an agency review conference and/or a DSS administrative hearing to seek review of any determinations or actions made by HRA under this subchapter, as well as any failures to act, or failures to act with reasonable promptness, by HRA in implementing the provisions of this subchapter.

(b) Agency Review Conference.

(1) If an individual requests an agency review conference pursuant to subdivision (a) of this section, HRA shall informally review and attempt to resolve the issues raised.

(2) An individual may request an agency review conference without also requesting a DSS administrative hearing. Requesting an agency review conference will not prevent an individual from later requesting a DSS administrative hearing.

(3) An agency review conference must be requested within sixty days after the challenged determination or action, provided further that if a DSS 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 a DSS 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 a DSS Administrative Hearing.

(1) An administrative hearing must be requested in writing. Such written request must be submitted by mail, electronic means or fax, or other means as DSS 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 individual who has requested a conference or hearing under this section must have the individual's written authorization to represent him or her at an agency review conference or administrative hearing and to review their case record, provided that such written authorization is not required from an attorney retained by such individual. 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 DSS by telephone of such employee's authorization.

(2) Once DSS has been notified that a person or organization has been authorized to represent an individual at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by DSS to the individual relating to the conference and hearing.

(e) Aid Continuing.

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

(A) The program participant has voluntarily waived their 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, CITYFHEPS rental assistance 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.

DSS shall provide the individual who has requested a hearing under this section 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 individual has withdrawn their hearing request.

(g) Examination of Case Record.

The individual who has requested a conference or hearing under this section or their authorized representative has the right to examine the contents of their CITYFHEPS program case file, if one exists, 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 individual with copies of all such documents, and copies of any additional documents in the possession of HRA that the individual 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 individual 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 their own motion or at the request of the individual who requested the hearing or their authorized representative, or HRA.

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by DSS 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 individual who requested the hearing 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) DSS will consider an administrative hearing request abandoned if neither the individual who requested the hearing nor their authorized representative appears at the administrative hearing, unless either the individual or their authorized representative has:

(A) contacted DSS 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 DSS and provided a good cause reason for failing to appear at the administrative hearing on the scheduled date.

(2) DSS will restore the case to the calendar if the individual who requested the hearing or their 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.

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.

- (1) A copy of the decision will be sent to each of the parties and to their authorized representatives, if any. The decision shall include written notice to the individual who had requested the hearing of the right to further appeal and the procedures for requesting such appeal.
- (2) HRA is not bound by a hearing decision that exceeds the authority of the hearing officer or that is contrary to federal, State, or local law or these rules. If the Commissioner determines that HRA is not bound by a hearing decision, the Commissioner shall promptly notify the individual who had requested the hearing of such determination, and of the reasons for the determination. Such notification shall be in writing and shall also inform the individual of the right to judicial review.

(m) Additional appeal.

- (1) An appeal from a decision of a hearing officer may be made in writing to the Commissioner provided it is received by DSS through the procedures described in the notice accompanying the hearing decision no later than fifteen business days after DSS sends 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 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, including 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 made pursuant to an appeal under this section is final and binding upon HRA and must be complied with by HRA.

§ 10-14 Landlord Requirements

(a) A landlord who signs a lease or other rental agreement with a household in receipt of CITYFHEPS rental assistance is prohibited from demanding, requesting, or receiving any amount above the rent or reasonable fees as stipulated in the lease or rental agreement regardless of any changes in household composition.

(b) When HRA issues monthly CITYFHEPS rental assistance payments and monthly PA shelter allowance payments (if any) in full by the final day of the month, these payments will be deemed timely paid towards the CITYFHEPS unit's rent for that month, regardless of any provisions in the CITYFHEPS unit lease to the contrary.

(c) Landlords are required to accept the HRA security voucher in lieu of a cash security deposit and may not request any additional security from the client.

(d) Landlords must not move a household from one unit to another without the prior written approval of both HRA and the household.

(e) Landlords must notify HRA within 5 business days of learning that the household no longer resides in the unit towards which CITYFHEPS rental assistance is being applied.

(f) Landlords must notify HRA within 5 business days if any legal proceeding affecting the program participant's tenancy is commenced.

(g) Landlords must notify HRA promptly if the landlord, owner of the subject premises, or the management company changes.

(h) If the household no longer resides in a CITYFHEPS unit, the landlord must return any overpayment to HRA.

(i) Landlords must promptly return to the City any overpayments, including but not limited to monies paid in error or made as a result of inaccurate, misleading or incomplete information submitted by the landlord in connection with the CITYFHEPS Program.

(j) Landlords may be banned from participation in City rental assistance programs for violations of any of the landlord requirements. 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.

§ 10-15 Additional Provisions.

(a) CITYFHEPS rental assistance cannot be combined with any other rent subsidies other than a PA 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 the Commissioner where combining the subsidies is practicable and not contrary to law.

(b) Applicants and shelter residents are responsible for identifying potential housing. However, shelter staff will provide assistance to HRA and DHS shelter residents in their housing search and will provide shelter residents and others that they have found to be potentially eligible for CITYFHEPS rental assistance with a CITYFHEPS shopping letter.

(c) HRA shall not maintain a waitlist for the CITYFHEPS program.

(d) The number of eligible households that can be approved for CITYFHEPS rental assistance under this section will be limited by the amount of available funding.

(e) A LINC participant holding a lease for a unit that is subject to government regulations with respect to allowable rents as of the effective date of this rule will be permitted to accept a renewal of their lease at the rate authorized by any government entity authorized by local, state or federal law to set rents without prejudice to their eligibility for CITYFHEPS.

(f) Households in the CITYFHEPS program will be referred to service providers who will help connect them to appropriate services in their communities.

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: New City rental assistance program called CITYFHEPS

REFERENCE NUMBER: HRA-19

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/ ALEXANDRA OZOLS
Mayor's Office of Operations

July 17, 2018
Date

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: New City rental assistance program called CITYFHEPS

REFERENCE NUMBER: 2018 HRA 007 (CITYFHEPS)

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
Acting Corporation Counsel

Date: July 17, 2018