

## 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 Department of Social Services / Human Resources Administration (DSS/HRA) proposes amending its rule governing the Fair Fares program to include Access-A-Ride paratransit trips.

**When and where is the hearing?** The Department of Social Services / New York City Human Resources Administration will hold a public hearing on the proposed rule. Due to COVID-19, the public hearing will take place remotely via WebEx on **September 3, 2020 at 11:00 AM**. Those wishing to attend the hearing may join by:

- **Phone:**

Dial 646-992-2010

When prompted, enter access code 129 778 6784

- **Internet Video and Audio:**

Visit <https://nyc-dss.webex.com/nyc-dss/j.php?MTID=m419df96e8aa8f58273ddf94bedb3d760>

When prompted, enter:

Meeting Number: 129 778 6784

Password: FairFares

**How do I comment on the proposed rule?** Anyone can comment on the proposed rule 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](mailto:NYCRules@hra.nyc.gov). Please include "Fair Fares" in the subject line.
- **Mail.** You can mail comments to:

HRA Rules  
c/o Office of Legal Affairs  
150 Greenwich Street, 38<sup>th</sup> Floor  
New York, NY 10007

Please make clear that you are commenting on the Fair Far rule.

- **Fax.** You can fax comments to 917-639-0413. Please include “Fair Fares Rule” in the subject line.
- **By speaking at the hearing.** You may sign up to speak at the hearing by calling 929-221-7220 or emailing [NYCRules@hra.nyc.gov](mailto:NYCRules@hra.nyc.gov) on or before September 2. Speakers will be called in the order that they signed up and will be able to speak for up to two minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is September 3, 2020

**What if I need assistance to participate in the hearing?**

You must tell us if you need interpretation services or a reasonable accommodation to participate in for the hearing. You can tell us by email at [NYCRules@HRA.nyc.gov](mailto:NYCRules@HRA.nyc.gov). You may also tell us by telephone at 929-221-7220. Advance notice is requested to allow sufficient time to make arrangements. Please tell us by August 20, 2020.

**Can I review the comments made on the proposed rule?** You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. Shortly 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 and Article VII of the New York State Constitution 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.

**Was the proposed rule included in HRA’S regulatory agenda?** This rule was not contemplated when HRA issued its most recent regulatory agenda.

**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 Proposed Rule**

The Fair Fares NYC Program helps New York City residents with low incomes manage their transportation costs by providing them with a 50% discount on public transportation. The program has been launched in phases and a rule concerning the program was issued by the New York City Department of Social Services (DSS/HRA) late last year.

DSS/HRA will now be making the Fair Fares discount available on Access-A-Ride paratransit trips with the cooperation of New York City Transit. To that end, a letter was sent to all Access-A-Ride customers earlier this summer telling them how to apply for Fair Fares NYC and how to link their DSS/HRA Fair Fares NYC and Metropolitan Transportation Authority Access-A-Ride accounts. So far, approximately 700 Fair Fares customers have made that linkage. Although Access-A-Ride paratransit customers are not currently being charged a fare at all due to the COVID-19 pandemic, upon the resumption of fare collection customers will be able to take advantage of this discount.

The current Fair Fares rule provides that the Fair Fares discount shall be available “on NYCT-operated subway and local bus lines, and such other transit options that DSS/HRA may designate in consultation with NYCT.” Thus, although a rule change is not strictly necessary to expand Fair Fares to Access-A-Ride trips, DSS/HRA proposes amending the rule to reflect the inclusion of Access-A-Ride.

Additionally, the proposed rule:

- (1) replaces references to the “Fair Fares MetroCard” with a more generic reference to the “Fair Fares discount” in light of the facts that MetroCards are not used on Access-A-Ride trips and that the One Metro New York (OMNY) system will likely eventually replace the MetroCard altogether,
- (2) changes an erroneous reference to “federal gross income” to “gross income,” and
- (3) removes a definition of term that is not used in the rule.

New material is underlined. Deleted material is [bracketed].

### **Text of Rule**

Chapter 12 of Title 68 of the Rules of the City of New York is amended as follows:

**Section 1. Subdivision(a) of Section 12-01 of Title 68 of the Rules of the City of New York is amended to read as follows:**

(a) [“City agency” means a city agency as defined in section 1-112(1) of Title 1 of the New York City Administrative Code] “Access-A-Ride” means the paratransit program operated by the New York City Transit Authority NYCT for people whose disabilities prevent them from riding NYCT’s fixed-route bus and subway systems.

**§ 2. Subdivisions (c) and (d) of Section 12-01 of Title 68 of the Rules of the City of New York are amended to read as follows:**

(c) “Fair Fares NYC Conditions of Use” or “Conditions of Use” means the terms and conditions that an applicant must accept and agree to be bound by before receiving a [FFM] FF discount pursuant to DSS/HRA’s Memorandum of Understanding with the New York City Transit Authority.

(d) “Fair Fares NYC [MetroCard] discount” or [“FFM”] “FF discount” means the [special MetroCard (or any successor to the MetroCard) that allows eligible individuals to receive a] discount for eligible individuals on designated travel options pursuant to the program established by this chapter.

**§ 3. Section 12-02 of Title 68 of the Rules of the City of New York is amended to read as follows:**

**§ 12-02 In General.**

[DSS/HRA will administer Fair Fares NYC and will make eligibility determinations in accordance with this chapter. Participants will be able to use the Fair Fares NYC MetroCard to travel on all NYCT-operated subway and local bus lines, and such other transit options that DSS/HRA may designate in consultation with NYCT. Participants will be able to use the card to purchase, at half-price, pay per ride, 7-day or 30-day fares or such other fare types that DSS/HRA will designate as being available under the Program in the future. The program is subject to the availability of funding.]

(a) DSS/HRA will administer Fair Fares NYC and will make eligibility determinations in accordance with this chapter. Participants will be able to use the Fair Fares NYC discount to travel on all NYCT-operated subway and local bus lines, Access-A-Ride trips, and such other transit options that DSS/HRA may designate in consultation with NYCT, except that if a participant is already receiving a duplicative discount on one or more types of transportation, they shall only be able to use the discount on the type or types of transportation for which they are not receiving a duplicative discount.

(b) Other than Access-A-Ride users, who will pay their fare in the manner prescribed by NYCT, participants will be able to use the ~~card~~ discount to purchase, at half-price, pay per ride, 7-day or 30-day fares or such other fare types that DSS/HRA will designate as being available under the Program in the future.

(c) The program is subject to the availability of funding.

**§ 4. Subdivision (a) of Section 12-03 of Title 68 of the Rules of the City of New York is amended to read as follows:**

(a) To be eligible to receive a Fair Fares [NYC MetroCard] discount an applicant must:

(1) submit a completed application, including supporting documentation, in a format and manner established by the Program;

(2) submit a signed Fair Fares NYC Conditions of Use form pursuant to DSS/HRA's Memorandum with New York City Transit Authority; and

(3) meet the following eligibility requirements:

(A) The applicant must be a New York City resident;

(B) The applicant must be between 18 and 64 years of age;

(C) The applicant's-[federal] gross income must not exceed 100 percent of FPL;

(D) Except as provided in section 12-02(a) of this chapter [The] the applicant must not currently be eligible for a duplicative discount or benefit from DSS/HRA, NYCT or any other entity or program;

(E) The applicant must not be currently suspended or permanently disqualified from the Program under section 12-05(b) of this chapter;

**§ 5. Subdivisions (b) and (c) of Section 12-04 of Title 68 of the Rules of the City of New York are amended to read as follows:**

(b) If the Program determines that a participant no longer meets the requirements of section 12-03(a)(3) of this chapter, or is no longer able to use the [card] FF discount due to a period of incarceration or other institutionalization of 30 days or more, the Program will provide a notice to the participant that will include the reason for the determination and the date their [FFM] FF discount will be deactivated.

(c) In order to re-enroll in the Program after their first or any subsequent year, or after having their [card] discount deactivated pursuant to subdivision (b) of this section, an individual must satisfy the same eligibility requirements as a new applicant.

**§ 6. Subdivisions (a) and (b) of Section 12-05 of Title 68 of the Rules of the City of New York are amended to read as follows:**

(a) The [FFM] FF discount can be used only by the participant to whom it is issued and only in accordance with the Fair Fares NYC Conditions of Use pursuant to DSS/HRA's Memorandum of Understanding with NYCT.

(b) A participant who misuses or abuses the [FFM] FF discount or commits fraud on the program, including but not limited to [giving the card to another person to use] allowing another person to use the Fair Fares discount assigned to them or deliberately providing misinformation to the Program, will be subject to the following penalties:

(1) For the first offense, the participant will be suspended from the Program for 60 days. The individual will be allowed to reapply following the 60-day suspension and after signing an attestation in a form to be established by the Program.

(2) For the second offense, the participant will be permanently disqualified from the Program.

**§ 7. Subdivision (a) of Section 12-06 of Title 68 of the Rules of the City of New York is amended to read as follows:**

(a) In the event an individual is found ineligible for a [FFM] Fair Fares discount under section 12-03 or 12-04 of this chapter, or is determined to have misused or abused the [card] discount or

committed fraud on the program, they may request administrative review of the decision by submitting a review request, in a form and manner established by the Program, within 14 days of the date of the decision.

**§ 8. Subdivision (a) of Section 12-08 of Title 68 of the Rules of the City of New York is amended to read as follows:**

(a) For so long as the program uses a card to facilitate the discount for some types of transportation, [The] the Program reserves the right to limit the number of replacement cards it will issue to an individual within a calendar year, in accordance with the Conditions of Use pursuant to DSS/HRA's Memorandum of Understanding with NYCT.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR**

**NEW YORK, NY 10007**

**212-788-1400**

**CERTIFICATION / ANALYSIS**

**PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Fair Fares Program**

**REFERENCE NUMBER: HRA-27**

**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/ Francisco X. Navarro

Mayor's Office of Operations

July 21, 2020

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:** Amendment of Fair Fares Program

**REFERENCE NUMBER:** 2020 RG 066

**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 L. GOULDEN  
Acting Corporation Counsel

Date: July 19, 2020