

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.

A proposed final rule was published in the City Record on December 7, 2022 and a public hearing was held on January 10, 2023.

Statement of Basis and Purpose

As outlined in the City's plan to prevent homelessness, "Housing Our Neighbors: A Blueprint for Housing and Homelessness," the City has reoriented its approach to housing and homelessness, including using input from New Yorkers who have been homeless. In line with this new approach, HRA is expanding the eligibility criteria for rental subsidies and to reduce red tape and other administrative burdens.

Specifically, eligibility has been expanded to:

- Make single adults eligible when they are earning minimum wage and working full-time, even if their income is slightly higher than 200 percent of the federal poverty level.
- Reduce the monthly contribution by CityFHEPS tenants who move into single-room occupancy units from 30 percent of their income to a maximum of \$50 per month.
- Reduce the number of hours that families are required to work to become eligible for CityFHEPS from 30 to 14 hours per week.
- Create an option for CityFHEPS voucher-holders who choose to secure an apartment that rents above the CityFHEPS maximum to use a voucher by paying up to 40 percent of their income.
- Expand SSI eligibility for CityFHEPS families from only an adult in the household to any household member, such as a child.
- Change the maximum room rental rate so it can be set at the discretion of the Commissioner, in consultation with OMB.

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

New material is underlined.

Deleted material is [bracketed].

“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.

The New York City Human Resources Administration hereby amends Chapter 10 of Title 68 of the Rules of the City of New York which will read as follows:

Section 1. 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 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 [30] 14 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 [30] 14 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 [18 years of age or older] 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) The household includes a member who is 60 years of age or older; or

(v) 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.

§ 2. Section 10-05 of Title 68 of the Rules of the City of New York is amended to read as follows:

§ 10-05 Maximum Monthly Rents.

(a) Except as otherwise provided in 68 RCNY § 10-15(h), the maximum monthly rent for an SRO or apartment towards which CityFHEPS rental assistance under this subchapter may be applied will be set by HRA in accordance with Section 982.503 of Title 24 of the Code of Federal Regulations, at the payment standard adopted by the New York City Housing Authority pursuant to such section. When calculating CityFHEPS rental assistance payment amounts, HRA will subtract from such maximum monthly rent a utility allowance set by HRA at the standard adopted by the New York City Housing Authority pursuant to Section 982.517 of Title 24 of the Code of Federal Regulations. HRA will publish on its website the current CityFHEPS maximum monthly rents and utility allowance schedule.

(b) The maximum monthly rent for a room towards which CityFHEPS rental assistance under this subchapter may be applied during the first year of the rental agreement [is \$800] shall be determined by the Commissioner whenever an adjustment in the payment standard is adopted by the New York City Housing Authority pursuant to Section 982.503 of Title 24 of the Code of Federal Regulations. In making such a determination, the Commissioner shall consult with the Office of Management and Budget and consider the effects that the new payment standard adopted by the New York City Housing Authority may have on the local housing market. The current maximum monthly rent for a room shall be published on HRA's website. 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 PA 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(b) of Title 9 of the New York Codes, 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.

(3) The rent for the room must include heat, hot water, electricity and, if the stove is not electric, cooking gas.

§ 3. Section 10-06 of Title 68 of the Rules of the City of New York is amended to read as follows:

§ 10-06 Calculation of CityFHEPS Rental Assistance Payment Amount – Apartments and SROs.

(a) Where the CityFHEPS unit is an SRO, the monthly CityFHEPS rental assistance payment amount will equal the actual monthly rent for the CityFHEPS unit, up to the maximum monthly rent less the utility allowance, as described in 68 RCNY § 10-05, minus the base program participant contribution which shall be equal to \$50 per month.

(b) 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 less the utility allowance, as described in 68 RCNY § 10-05, minus the base program participant contribution as calculated pursuant to [68 RCNY § 10-06(b)] paragraphs (1) and (2) of this subdivision.

[(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, or at the time of a recalculation of the CityFHEPS rental assistance amount pursuant to 68 RCNY § 10-09(a) or RCNY § 10-09(b), the household reports no income, the base program participant contribution will equal the maximum PA shelter allowance for the household size. If monthly rent for the CityFHEPS unit is greater than the payment standard set in 68 RCNY § 10-05(a) for the household size and the household demonstrates the ability to pay the excess rent over the payment standard, the household may be permitted to pay no more than 40% of the monthly household income total (30% of income + excess rent over the payment standard).

(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 68 RCNY § 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 household for CityFHEPS rental assistance under this subchapter to be applied to an apartment or SRO, HRA will make the following payments to the landlord:

(1) Where the household is remaining in their residence, HRA will pay in the usual course the first month's rent minus any PA shelter allowance.

(2) Where the household is moving to a new residence, HRA will pay the first month's rent in full plus the CityFHEPS rental assistance payments for the next three months.

Notwithstanding the foregoing, HRA will accommodate any request by the landlord to receive only the first month's rent upfront.

(e) After making the payments described in 68 RCNY § 10-06(d), HRA will 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.



**Department of
Social Services**

Human Resources
Administration

Department of
Homeless Services

W-1
01/22

Gary P. Jenkins
Commissioner

January 25, 2023

150 Greenwich Street
New York, NY 10007

929 221 7315

Honorable Eric Adams
Mayor of the City of New York
City Hall
New York, NY 10007

Re: FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

Dear Mayor Adams,

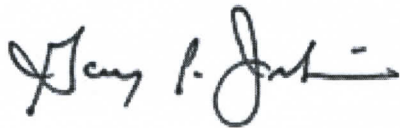
The City is facing a major crisis of housing affordability, which has resulted in an unprecedented number of homeless families who have sought refuge in our DHS and HRA shelter systems. The City is committed to keeping New Yorkers in stable housing and seeks to expand CityFHEPS eligibility through rulemaking to achieve this goal.

This rule implements a key pillar in the Mayor's housing plan, "Housing our Neighbors: A Blueprint for Housing and Homelessness," released in June 2022, of addressing homelessness and housing instability. The rule would reduce barriers to applications by making single adults eligible when they are earning minimum wage and working full-time; reduce the monthly contribution by CityFHEPS tenants who move into single-room occupancy units; reduce the number of hours that families are required to work to become eligible for CityFHEPS; create an option for CityFHEPS voucher-holders who choose to secure an apartment that rents above the CityFHEPS maximum; expand SSI eligibility for CityFHEPS families from only an adult in the household to any household member; and change the maximum room rental rate. These changes will immediately achieve the housing plan's goals of combatting housing instability, help New Yorkers move into permanent housing, and reduce the risk of returning to shelters.

A public hearing on the rule was held on January 10, 2023. The City wants the expanded CityFHEPS eligibility criteria to apply to New Yorkers as soon as possible. Immediate implementation of the rule on its final publication will allow the City to expeditiously assist New Yorkers seeking permanent and stable housing.

Therefore, pursuant to section 1043(f)(1)(d) of the New York City Charter, DSS finds that there is a substantial need for the earlier implementation of this rule regarding CityFHEPS eligibility. Consequently, the attached rule shall be effective upon its final publication in the City Record, and the requirement that thirty days first elapse after such publication shall not apply.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary P. Jenkins". The signature is fluid and cursive, with a horizontal line extending from the end.

Gary P. Jenkins
Commissioner of the Department of Social Services

Approved:

A handwritten signature in black ink, appearing to read "Eric Adams". The signature is cursive and somewhat stylized.

Eric Adams
Mayor

Dated: JANUARY 25, 2023