

## **Emergency Assistance Statute Governing DHCD**

### **G.L. c. 23B, section 30, as created by St. 2009, c. 4, section 37 and amended by St. 2009, c. 27, sections 13-16**

Chapter 23B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 29 the following section:-

Section 30. Subject to appropriation, the department shall administer a program of emergency housing assistance to needy families with children and pregnant woman with no other children. The commonwealth shall accept funds from the appropriate federal authorities for said program. The department shall administer the program throughout the commonwealth at locations that are geographically convenient to families who are homeless or at-risk of homelessness and shall administer the program in a fair, just and equitable manner.<sup>1</sup>

(A) The department shall promulgate rules and regulations to establish the levels of benefits available under the program and to ensure simplicity of administration in the best interest of needy recipients. Such benefits shall include, but not be limited to, the following:-

(a) for the prevention of the loss of housing, the actual liability up to three times the monthly rental or mortgage liability;

(b) for the prevention of utility shutoffs or for the resumption of utility services, up to three months of the actual service liabilities;

(c) for the provision of home heating assistance, up to three months of the actual fuel liabilities.

(d) The department shall promulgate regulations which would authorize the department to make payments for a fourth month of rent, utility or fuel arrearages if the director certifies in writing that the family would otherwise become homeless, or be without utilities or fuel.

(e) for the prevention of homelessness, temporary shelter as necessary to alleviate homelessness when such family has no feasible alternative housing available, storage of furniture for up to thirty days; moving expenses; advance rent payments of one month's rent; and security deposit not to exceed one month's rent.

The department shall establish procedures, consistent with federal law, to require applicants for the program to also submit an application for federal energy assistance where appropriate. No benefits for a particular emergency

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<sup>1</sup> Preceding sentence added by St. 2009, c. 27, section 13.

shall be provided to an applicant family under the emergency assistance program when benefits are available within seven days of application under the federal assistance program to meet such particular emergency.

(B) The department shall promulgate rules and regulations to establish the requirements and standards for eligibility. Subject to appropriation, such regulations shall provide that a needy family shall be eligible for assistance under the emergency assistance program if its income is within the income limits for the program of aid to families with dependent children established pursuant to chapter one hundred and eighteen.

Emergency housing assistance shall be denied to a family who, at any time within 1 year immediately prior to the filing of an application for emergency assistance, has depleted, assigned or transferred real or personal property that would have rendered such family ineligible for assistance if the depletion, transfer or assignment was not reasonable at the time or was not for good cause reasons. For purposes of the preceding sentence, good cause reasons shall include, but not be limited to, that the funds were expended for necessary or reasonable costs of living such as rent, utilities, food, health related needs, education related expenses or transportation.<sup>2</sup>

The department shall take all reasonable actions to minimize abuse and errors. Such activities shall include:-

- (a) the collection and analysis of data regarding utilization patterns;
- (b) the recording and tracking of use of this program by individual recipients, including, but not limited to, the utilization of a year to year cross check of recipients to determine if a person or persons has received similar benefits in the previous year or years;
- (c) the utilization by the department of mechanisms, such as payment of all or part of a regular assistance grant directly to vendors, to prevent the misuse of this program, provided, however, that such mechanisms are authorized under federal or state law;
- (d) the utilization of wage reporting and bank matching systems, provided, however, that the provision of assistance shall not be delayed by such utilization;
- (e) the verification of all elements of eligibility. Such verification

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<sup>2</sup> Preceding 2 sentences inserted by St. 2009, c. 27, section 14 and replaced prior words that read: - Emergency housing assistance shall not be granted to a family who, but for the assignment or transfer of real or personal property at any time within one year immediately prior to the filing of an application for emergency housing assistance, would not be eligible for such assistance.

requirements, including home visits by workers assigned to recipients, shall be reasonable and in accordance with federal law and regulations, where applicable. The department shall determine which verification requirements can be reasonably met by third party affidavits and shall provide notification to recipients and applicants of the circumstances when third party affidavits may be used. The department shall establish reasonable procedures for the verification of continuing eligibility, including monthly reporting and retrospective budgeting where appropriate.

(C) Subject to federal approval of any necessary waivers, the department shall use the warrant management system established pursuant to section twenty-three A of chapter two hundred and seventy-six; and, in accordance with section 11 of chapter 14 and the rules and regulations of the fraudulent claims commission, the department shall forward the name of any applicant or beneficiary of emergency housing assistance who, according to said warrant management system, has an outstanding default or arrest warrant issued against him; and the department shall comply with existing state and federal law applicable to time standards for review and determination of eligibility, and all notice and hearing requirements afforded to applicants and beneficiaries under its emergency housing assistance programs; and The department shall not issue a check or grant any non-shelter<sup>3</sup> benefits of any kind to or on behalf of an applicant for or recipient of emergency housing assistance benefits against whom an outstanding default or arrest warrant has issued by any court of the commonwealth. Evidence of the outstanding default or arrest warrant appearing in said warrant management system shall be sufficient grounds for such action by the department.

If a hearing is requested to challenge the termination of benefits due to an outstanding default or arrest warrant, the law enforcement agency responsible for the warrant shall be notified of the time, place, date of hearing and the subject of the warrant. An affidavit from the law enforcement agency responsible for the warrant or from the colonel of the state police may be introduced as prima facie evidence of the existence of a warrant without the need for members of that law enforcement agency to attend any hearings held under this section.

(D) Any person or institution which knowingly makes a false representation or, contrary to a legal duty to do so, knowingly fails to disclose any material fact affecting eligibility or level of benefits to the department or its agents, for the purpose of causing any person, including the person making such

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<sup>3</sup> "Non-shelter" inserted by St. 2009, c. 27, section 15.

representations, to be eligible for emergency housing assistance, shall be punished by a fine of not less than two hundred nor more than five hundred dollars or by imprisonment for not more than one year.

Nothing in this section shall be construed as preventing the institution of criminal proceedings for the violation of any other law of the commonwealth.

(E) Any vendor under the emergency housing assistance program administered by the department shall submit to the department, within six months of the last day of the month in which such service was rendered, a bill for the same. For the purposes of this chapter a vendor shall be any person or institution providing services in connection with any assistance program administered by the department. All vouchers submitted by a vendor shall be signed under the penalties of perjury.

(F) There shall be within the office of the chief counsel a division of hearings for the purpose of holding the hearings referred to herein and rendering decisions. Said division shall be under the supervision of a hearings manager appointed by the director and shall be independent of all other divisions and personnel of the department.

Any person aggrieved by the failure of the department to render adequate aid or assistance under the emergency housing assistance program administered by the department or to approve or reject an application for aid or assistance thereunder within forty-five days after receiving such application, or aggrieved by the withdrawal of such aid or assistance, or by coercive or otherwise improper conduct on the part of the emergency housing assistance program staff, shall have a right to a hearing, after due notice, upon appeal to the director.

A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager and shall be conducted as an adjudicatory proceeding under chapter 30A. The department shall offer the person appealing the option to hold the hearing: (a) such that the hearing officer, person appealing and department representatives shall be in 1 location for the hearing and such location shall be convenient to the person appealing; (b) telephonically; or (c) through other available means such as videoconferencing. The person appealing shall have the right to choose among these options. No employee shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and may

review and discuss with the hearing officers such decisions solely in order to carry out this responsibility. The hearing manager shall be responsible for the training of hearing officers, scheduling of hearings and the compilation of decisions. The hearings manager may grant a request by the person appealing for a remand of the decision to the hearings officer who made the initial decision or another hearings officer for reconsideration of an initial decision. The final decision of the hearing officer shall be the decision of the department.<sup>4</sup>

A hearing officer shall render and issue his decision within ninety days after the date of the filing of the aggrieved person's appeal, except that when an aggrieved person appeals the rejection of his application for aid or assistance, or the failure to act on said application, or the failure of the department to render assistance to meet an emergency or hardship situation, the hearing officer shall render and issue the decision within forty-five days after the date of filing of said appeal. The decision of the department shall be subject to review in accordance with the provisions of chapter thirty A.

When a timely request for a hearing is made because of a termination or reduction of assistance that has been provided on the basis of a final determination of eligibility, involving an issue of fact, or of judgment relating to an individual case, between the agency and the appellant, assistance shall be continued during the period of the appeal. If the decision is adverse to the appellant, assistance shall be terminated immediately. If assistance has been terminated prior to a timely request for a hearing, assistance shall be reinstated.

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See also non-codified provisions at St. 2009, c. 27, sections 109 and 142 (as well as annual line item 7004-0101):

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<sup>4</sup> Paragraph inserted by St. 2009, c. 27, section 16, replacing: A hearing held pursuant to this section shall be conducted by a hearing officer designated by the hearings manager at a location convenient to the person appealing and shall be conducted as an adjudicatory proceeding under chapter thirty A. The hearings manager shall be responsible for the fair and efficient operation of the division in conformity with state and federal laws and regulations and for the training of hearing officers, scheduling of hearings and the compilation of decisions. No employee other than the hearings manager shall review, interfere with, change or attempt to influence any hearing decision by a hearing officer. The decision of the hearing officer shall be the decision of the department.

SECTION 109. Notwithstanding any general or special law to the contrary, except to the extent otherwise required by chapter 4 of the acts of 2009 or other provisions of law, and until such time as the department adopts regulations pursuant to and in conformity with section 30 of chapter 23B of the General Laws and other applicable laws, the department of housing and community development shall administer the emergency housing assistance program pursuant to 106 C.M.R. sections 204, 309, 701.310 to 701.330, inclusive, 701.350 to 701.360, inclusive, and 701.380 to 701.390, inclusive, in effect on June 30, 2009.

SECTION 142. Notwithstanding any general or special law to the contrary, applications for assistance from the emergency housing program established in section 30 of chapter 23B of the General Laws shall be taken and processed at offices of the department of transitional assistance until the department of housing and community development develops an operational plan ensuring that convenient access to emergency housing assistance will not be impaired by any alternative arrangement. The department of housing and community development shall provide the joint committee on children, families and persons with disabilities, the joint committee on housing and the house and senate committees on ways and means with 180 days advance notice of any proposal to stop making emergency housing assistance accessible in offices of the department of transitional assistance. The department of housing and community development shall provide said committees with a copy of the operational plan and, in cooperation with the department of transitional assistance, an analysis of the impact of such plan on the ability of homeless and at-risk families to conveniently access emergency housing assistance, food stamps and cash assistance. Nothing in this section shall prevent the department from making emergency housing assistance available at locations in addition to offices of the department of transitional assistance.