



Commonwealth of Massachusetts

DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

Public Housing Notice: 2006-11

Memorandum

To: Executive Directors at all Local Housing Authorities (LHAs),
Regional Non Profits (RNPs) and all Housing Assistance
Program (HAP) Providers

From: Carole Collins, Director, Bureau of Housing Management

Subject: Clarifications on Homeless Priorities in Tenant Selection for
State-Aided Programs

Date: September 14, 2006

The Department of Housing and Community Development (DHCD) has been working closely with the Department of Transitional Assistance (DTA) to identify eligible and qualified homeless families in shelters who could access state-aided housing programs. In conversations with HAP providers with whom DTA contracts to assist shelter residents with their housing search, it has come to our attention that there are some misunderstandings regarding the criteria to determine homeless status for the purpose of tenant selection for state-aided housing programs. Issues that have been frequently raised by HAP staff and the DHCD responses to those issues are set out below.

Issue: HAP staff does not understand why DHCD has a priority status for homeless, but LHAs will not give some households homeless priority status.

Response: Households must complete the emergency application to receive homeless priority status. "Homeless" for the purposes of emergency case status is a term which is defined in the regulations by certain criteria and is not just "homeless" in the everyday use of the word. Additionally, of the 105 homeless shelter residents on a recent list given to DHCD by DTA, many never filled out an emergency application which must be filed with a standard application in order to be considered for priority status. A number of the control numbers provided by the HAPs were not state-aided control numbers which generally begin with F for family programs or E for elderly programs. If homeless applicants apply to federal programs, these applications are governed by HUD regulations and are not subject to DHCD control or oversight.

Issue: DHCD's definition of homeless states that in order to be homeless, you have to be "without a place to live *and* facing an immediate and direct threat to the life and safety of the applicant or a household member." Many homeless shelter residents cannot apply for emergency status because they do not meet both criteria.

Response: In almost all circumstances, any household that is living in a homeless shelter, transitional housing program, or long-term health facility, meets subparagraph (a) of DHCD's definition of homeless at 760 CMR 5.03. Applicants will be considered "Homeless" under the DHCD definition if they also meet the criteria in subparagraphs (b), (c) and (d) of the definition. If they meet the regulatory definition of Homeless, then the remaining issue for these applicants to be granted emergency case status is whether they contributed to their homelessness. They will be deemed standard applicants if they were displaced because of non-payment of rent or other lease violation or otherwise caused the loss of their housing.

Issue: Some homeless shelter residents have criminal records and/or a history of substance abuse but have served their time in prison or are now in recovery and need housing but LHAs will not take them.

Response: Massachusetts General Laws Chapter 121B, Section 32 clearly makes people with a history of certain types of criminal activity ineligible for public housing and neither LHAs nor DHCD have the authority to waive Massachusetts law. The statute does allow LHAs to house people with a history of criminal activity if they can show mitigating circumstances that are sufficient to outweigh the disqualifying misconduct. Applicants should be encouraged to provide evidence of such mitigating circumstances when they believe that they exist. It should be noted that the issue of criminal activity is only raised when screening the applicant's qualifications for housing and not during the emergency application process.

Issue: Homeless applicants from shelters move frequently because of housing costs and other issues, so they often cannot show "primary" residency for nine (9) months before becoming homeless.

Response: In accordance with the regulatory definition of Homeless, homeless applicants must show that they clearly *intended* to live in the prior residence (from which they became homeless) for at least nine (9) months of the year. This can be proved by children registered in school, driver's license change of address, an insurance change of address, etc.

Issue: Some LHAs request homeless applicants to bring their own credit report in when they apply. HAPs feel that this requirement is cost prohibitive for many applicants and creates huge delays in placing the homeless. Some HAP staff have questioned the legality of having homeless bring credit reports at time of application.

Response: It is not illegal to require individuals to provide their own credit report. The delay in getting credit reports should not be holding people up from getting into housing. DHCD has encouraged LHAs to screen tenants 90 days from an anticipated vacancy (or based on turnover rates) and to keep a pool of screened applications ready to be placed when a vacancy occurs.

That being said, federal law now requires all three of the major credit bureaus to make credit reports available annually to every individual free. (In other words, you can get a free report from one company every 4 months.) These companies usually use social security numbers in addition to names and dates of birth (rather than addresses,) and we've found the reports to be available instantaneously on line. For further information go to <https://www.annualcreditreport.com>.

Issue: HAP providers have had major problems with obtaining five (5) years of landlord names and addresses for the majority of their clients. They claim that many shelter residents move around from place to place so that it is almost impossible to find the original homeowner or landlord of a rental especially if they have been bought out. They have to track down sales, deed changes, etc. They would like to shorten it to three (3) years with a signed affidavit that the applicant was not evicted for cause and the applicant could be rejected or evicted as a tenant if it is later discovered they were lying.

Response: The five (5) year housing history requirement is in the regulation so it cannot be changed without amendment and a public hearing. See 760 CMR 5.12(2.) The regulation already provides a procedure for when landlord references are unavailable. "If, after request, the LHA has failed to receive a reference from a landlord (or housing provider) it shall notify applicant of non-receipt, and the LHA shall request that applicant use his or her best efforts to cause the landlord (or housing provider) to submit the reference to the LHA. In the event the applicant uses his or her best efforts but is unsuccessful, the applicant shall cooperate with the LHA in securing information from other sources about the tenancy. Non-receipt of a reference from a landlord (or housing provider) shall be cause for determining an applicant unqualified unless the applicant can show that he or she has used best efforts to secure the reference and that he or she has complied with reasonable requests for cooperation in securing other information." I want to point out that this is a screening requirement for qualifications not for eligibility or for priority status.

Issue: DHCD has stated that homeless applicants will lose their homeless priority if they refuse a unit without good cause (i.e., now in a wheelchair and needs an accessible unit, medical condition now requires close access to a medical facility, etc.). HAP staff also have requirements that shelter residents accept housing, so how can HAP staff know if a client refuses housing?

Response: If an LHA has homeless applicants who refuse a unit, they are requested to send an email to me at Carole.Collins@state.ma.us, and I will forward the information to the designated staff person(s) at DTA. When SAPHIRE, the electronic tenant application and waiting list program becomes operational, the system will automatically take away the applicants' homeless status if they refuse a unit, so it is essential that shelter residents only apply where they will accept a unit offer.

I hope this memo has been of assistance in processing homeless applications. Please feel free to write me with additional questions.