

Modifications to Emergency Assistance Regulation 106 CMR 309

March 27, 2009

	Overview	Current Regulation	January Proposal	Comments Summary	Final Decision
1	Require that client accepts first offer of safe, permanent housing.	A client loses eligibility only after refusing a second offer of safe, permanent housing,	Client would lose eligibility if she refuses one offer of safe, permanent housing without good cause. Good cause is defined by cross-referencing other regulations.	Some commenters thought a family should be allowed to refuse any offers of housing. Another argues for a definition of “safe and permanent” and another thought good cause should be clearly defined.	Requiring a family to accept the first offer of safe, permanent housing is a reasonable provision when the alternative is to stay in emergency shelter. In response to comments, the good cause reasons have been expanded and are stated explicitly in this part of the regulation. They include: a) the housing would require the parent to leave a job that is part of their re-housing plan; b) the housing would interfere with critical medical needs of the parent or child, including the need to be accessible to specialty providers; c) the housing would interfere with the special education needs of a child; and, d) the housing is located in an area where a family member would be in proximity to a domestic abuser, or in an area the family was forced to leave earlier because of safety concerns directed at any member of the family. “Safe, permanent housing” is already defined in the regulations and is cross-referenced in this regulation.
2	Require that all families take part in activities leading to self-sufficiency.	The existing regulation describes some of the activities that are to be included in a self-sufficiency plan, most of which are related to housing search. There are no explicit requirements related to other activities that can lead to self-sufficiency.	Required 30 hours of “work-related activities” as defined in DTA’s TAFDC regulations, with an accommodation for the disabled.	Several commenters stated that a “rigid” requirement did not take individual situations into effect. Other comments suggested that it was not clear that many activities could satisfy this requirement in addition to work. Additional comments were that “good cause” should be more explicitly defined. The importance of employment supports was also identified.	The phrase “work-related activities” has been replaced with “activities leading to self-sufficiency” to make clear that a range of activities will lead to re-housing. There are now specific references to community service, education or training, and substance abuse treatment, in addition to paid employment and job search, as meeting the requirement. In response to comments, examples of “good cause” reasons, including lack of appropriate child care, transportation, dealing with medical issues including mental health and domestic violence, actual hours spent in housing search, and during the first 3 months with a newborn are stated explicitly. The shelter would be required to reassess regularly the re-housing plan based on the individual’s circumstances.

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3	Require a specified amount of monthly savings.	This is not addressed in the current regulations. It is a matter that, in practice, is part of the individual's self-sufficiency plan. However, a family's TAFDC grant is reduced by \$148.50 when they enter a shelter on the basis that they will not have shelter expenses. TAFDC families in shelter for at least 60 days receive up to \$1,000 as a relocation grant for expenses directly related to obtaining permanent housing when they move, so there is a type of "savings" now in effect.	Required household to save 30 percent of net monthly income, unless the family was in a motel. Exceptions could be made if there were "extraordinary circumstances" or if the Shelter Director requested an exemption if a reduction in the amount could lead to more rapid re-housing. Finally, in response to earlier comments, the regulation was drafted to exempt the amount of savings from the asset limitation of \$2,500.	Most commenters criticized the draft regulations because the 30% figure was too rigid and did not recognize individual circumstances. One stated that debt reduction should be the priority.	The figure of 30 percent was determined because this is the <i>minimum</i> amount the family will have to pay for rent upon placement in permanent housing. In response to comments, the draft regulation has been amended by allowing all, or a portion, of the 30 percent to be devoted to debt repayment such as back rent or utilities that can be a bar to achieving permanent housing. Also, the shelter, as part of regular reassessments of the re-housing plan, can address any desirable changes to the required amount of savings.
4	Do not allow entry to emergency shelter if a household is evicted or leaves public or subsidized housing without good cause.	At present, a household is denied eligibility if they have been evicted from public or subsidized housing for non-payment of rent, or from any type of housing for criminal activity or destruction of property.	In addition to the current exclusions, there was a proposed broadening of the exclusion to any eviction for "fault," and to situations where the family abandoned subsidized or public housing without good cause. The additional exclusions were limited to ones occurring in the preceding three years.	This proposed change is the one that generated the strongest negative comments early in the process. The comments focused on the view that people evicted would have no place else to go, and that many people are evicted for reasons unrelated to their level of responsibility for the eviction (e.g., loud guests, not understanding the court system and the ability to contest eviction).	In response to comments, we narrowed the additional "fault" reason for eviction to only those evictions where the reason was fraudulent behavior. There would be an exemption in cases of eviction where the wrongdoer was no longer part of the household. In addition, the provision on abandonment has been limited to situations where the departure was not for good cause, and only when it occurred in the preceding year. Reducing the period to one year is reasonable because it is unlikely a family would leave a unit with the intent of entering the shelter system more than a year away. "Good cause" would be explicitly stated and include leaving for permanent housing that did not work out, moving to take a job, or leaving a unit where there was a direct threat to the safety of that family.

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5	Change the maximum age for an eligible “child” to under 18.	Children under the age of 21 are allowed entry to a shelter.	The maximum age was changed to 17 unless the child is disabled, or is 18 and attending educational or training programs. We also stated in public meetings that a child under age 21 would be allowed in a shelter if there were other age-eligible children.	This provision generated a significant amount of comment at both the March 9 hearing before the Joint CYF Committee and the March 13 hearing. Many commenters questioned a policy that would send a young adult to an individual shelter, instead of allowing him or her to stay with the family group.	In response to comments, changing the age of eligibility for a child has been withdrawn. Instead, the child who is at least 18 years of age – considered an adult in most other contexts – would be required to take part in self-sufficiency activities.
6	Explicitly define “abandonment” of emergency shelter.	A family loses their eligibility if they “abandon” the shelter placement. There is not a definition of “abandon” in the current regulations, so there are instances when a one-night absence will be considered “abandonment.”	“Abandon” would be defined as not staying in a shelter for two consecutive nights, or having repeated shorter absences. It would not be considered an abandonment if authorized by the shelter Director, Department caseworker, or for “good cause.”	“Rigid” standard was opposed by one commenter, stating that it should be handled on a case-by-case basis; another stated that it should not prevent access to social supports at a time of trauma.	A lack of uniformity in the current system means there are unused units at a time when the system is experiencing high demand. In response to comments, the proposed regulation has been amended to specify some “good cause” reasons, including, but not limited to, such as dealing with a medical emergency or a death in the family.
7	Deny eligibility to anyone with an outstanding arrest or default warrant.	Addressing an outstanding warrant is part of a self-sufficiency plan.	Eligibility for EA would depend upon clearing any outstanding warrants within 30 days of being notified of the warrant by the Department. This would make the regulation consistent with state law.	One comment stated that family should be given the resources needed to address warrant; another stated it should be on a case-by-case basis.	The draft regulation has been clarified to make clear that the ineligibility only applies to the individual with the outstanding warrant.

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8	Reduce the period for extended eligibility upon receipt of income to three months.	A family that becomes ineligible because its income exceeds that eligibility standard can remain on Emergency Assistance for the next six months, provided they do not become ineligible for another reason. An extension beyond that limit can be granted in “extraordinary circumstances.”	The six-month period was shortened to three months.	Some commenters viewed this as “punishing” adults who went to work. Others thought three months was not enough time to find housing, and still others criticized the “rigid” approach.	This proposal has been withdrawn. The combination of the increased self-sufficiency and savings requirements, and the requirement to accept the first offer of housing, along with DHCD’s assumption of the program, should have the effect of reducing the amount of time families need to remain in shelter once their eligibility ends.
9	Add legal guardian to list of adults who may enter shelter with children.	The definition of adults who may enter a shelter with homeless children does not presently include legal guardians.	In response to comments made by advocates in the meetings held before the regulations were released in January, this change was added to the proposed regulations.	None	No change.