

## NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

### Notice of Public Hearing and Opportunity to Comment on Proposed Rule and Notice of Extension of Emergency Rule

**What are we proposing?** To implement the Mayor's priority of moving households from shelter into stable housing and preventing households from entering shelter, the New York City Human Resources Administration (HRA) proposes to amend Chapter 8 of Title 68 of the Rules of the City of New York to continue implementation of the Special Exit and Prevention Supplement Program (SEPS), which was established by emergency rule issued on August 26, 2015.

**When and where is the hearing?** HRA will hold a public hearing on the proposed rule. The public hearing will take place at 3:00 PM on November 17, 2015. The hearing will be held at Spector Hall, 22 Reade Street, First Floor, in downtown Manhattan.

**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: <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [constituentaffairs@hra.nyc.gov](mailto:constituentaffairs@hra.nyc.gov). Please include "SEPS Proposed Rule" in the subject line of your email.
- **Mail.** You can mail comments to:

**New York City Human Resources Administration  
The Office of Constituent Services  
150 Greenwich Street, 31st Floor  
New York, NY 10007**

- **Fax.** You can fax comments to HRA at 212-331-5998. Please include "SEPS Proposed Rule" on the cover page of your fax.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak at the beginning of the hearing. You can speak for up to two minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is November 17, 2015.

**What if I need assistance to participate in the hearing?** If you need an interpreter or if you need a reasonable accommodation for a disability at the hearing, you must tell us by November 10, 2015. You can call us at 929-221-5188, send a fax to 917-639-0296, or contact us by mail at:

**HRA Rental Assistance Programs  
150 Greenwich Street, 36th Floor  
New York, NY 10007  
Attention: Public Hearing**

**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/>. A few

days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments made at the public hearing concerning the proposed rule will be available to the public on HRA's website.

**What authorizes HRA to make this rule?** Sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law and sections 603 and 1043 of the New York City Charter authorize HRA to make this proposed rule. This proposed rule was not included in HRA's most recent regulatory agenda because it was not contemplated when HRA published the agenda.

**Where can I find HRA's rules?** HRA's rules are in Title 68 of the Rules of the City of New York.

**What rules 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.

### **Notice of Extension of Emergency Rule**

Notice is further given, pursuant to New York City Charter Section 1043(i)(2), that the emergency rule establishing the Special Exit and Prevention Supplement (SEPS) Program, issued on August 26, 2015, is hereby extended an additional sixty days, to December 24, 2015. The additional sixty days are needed for HRA to adopt a final rule concerning the program after completing the public comment and hearing process set forth in New York City Charter Section 1043(e).

### **Statement of Basis and Purpose of Rule**

In order to implement the Mayor's priority of preventing homelessness and moving adults from shelter into stable housing, in a joint effort with the Commissioner of the Department of Homeless Services (DHS), the Commissioner of the New York City Human Resources Administration (HRA) proposes to amend Chapter 8 of Title 68 of the Rules of the City of New York to continue the implementation of a new rental assistance program. The Special Exit and Prevention Supplement ("SEPS") program, which was established by emergency rule issued on August 26, 2015, is available to certain single adults and adult families who are homeless or at risk of homelessness, including veterans, adults who are residing in DHS shelters who have lost or are losing housing as a result of an eviction proceeding, a foreclosure proceeding, a City agency vacate order, or for health and safety reasons, or who were in a residential institutional facility prior to entering shelter, or who have been certified by HRA as survivors of domestic violence.

This proposed rule differs from the emergency rule establishing the SEPS program in the following ways:

- This proposed rule does not include a requirement, included in the emergency rule, that veterans currently in single adult shelters have resided in shelter at some point between May 1, 2015 and July 31, 2015;
- Consistent with an emergency rule issued on September 2, 2015, the proposed rule allows a household in receipt of rental assistance under the Living in Communities

("LINC") VI program to receive SEPS if the household meets the initial eligibility requirements for SEPS, except for the requirement that the household currently reside in shelter;

- Consistent with corresponding amendments to the LINC programs and the City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program ("CITYFEPS programs"), this proposed rule includes provisions authorizing HRA to: (1) increase the maximum rents for households with five or more individuals where HRA has determined that they are unlikely to secure housing within the next 90 days at the rents otherwise permitted in the programs; and (2) pay one year of rental assistance payments in advance to a landlord who has entered into a lease with a program participant for a unit that was used as DHS shelter immediately prior to lease signing. Additionally, consistent with the amendments to the LINC and CITYFEPS programs, this proposed rule clarifies how the rent supplement amount is calculated; and
- This proposed rule includes minor technical (non-substantive) amendments clarifying the timeframe for requesting a review conference or administrative appeal.

The continued need for the SEPS program is established by census data from DHS showing that the number of single adults and adult families in the DHS shelter system remains high, while the DHS shelter system for these populations experiences low vacancy rates.

Specifically, between July 1, 2004 and December 31, 2013, the number of adult families in the DHS shelter system increased by 59 percent. Similarly, there was a 20 percent increase in the average daily census for single adults during the same time period. As of October 9, 2015, 16,860 individuals in total were in DHS shelters for single adults and adult families.

As shelter census has increased, the DHS shelter system has continued to experience extremely low vacancy rates. Indeed, on October 9, 2015, the vacancy rate for adult family shelters was 0.11 percent and the vacancy rate for single adult shelters was 0.7 percent. DHS anticipates further strain on the single adult and adult family shelter system in the coming months.

Further, the City is currently faced with the critical need to find stable housing for hundreds of individuals who have been required to leave "three-quarter housing" for health and safety reasons. Many of these individuals are currently occupying temporary housing pending relocation to permanent housing and are at risk of shelter entry if permanent, affordable housing cannot be found. SEPS is urgently needed to provide rental assistance for many of these individuals to enable them to avoid entry into the DHS shelter system and relocate to stable housing.

SEPS provides an important new option for single adults and adult families who are homeless or at risk of homelessness that will allow more people to move from shelter to stable housing and decrease the number of entries to shelter, helping to reduce demands on the shelter system.

HRA's authority for this emergency rule may be found in sections 34, 56, 61, 62, 77, and 131 of the New York Social Services Law, sections 603 and 1043 of the New York City Charter, and section 352.6 of title 18 of the New York Codes, Rules and Regulations.

New text is underlined.  
Deleted text is in [brackets].

Section 1. The title of chapter 8 of title 68 of the rules of the city of New York is amended to read as follows:

**Chapter 8: The City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program (“CITYFEPS Programs”) and the Special Exit and Prevention Supplement Program (“SEPS Program”)**

§ 2. Chapter 8 of title 68 of the rules of the city of New York is amended by adding a new subchapter A, entitled “The City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program (“CITYFEPS Programs”),” encompassing sections 8-01 through 8-09.

§ 3. Section 8-01 of title 68 of the rules of the city of New York is amended by adding a new opening paragraph to read as follows:

§ 8-01 Definitions.

For the purposes of this subchapter, the following terms have the following meanings:

- (a) The “CITYFEPS Programs” or “CITYFEPS” means the City Family Eviction Prevention Supplement Program and the City Family Exit Plan Supplement Program described in this chapter.

\* \* \*

§ 4. Section 8-02 of title 68 of the rules of the city of New York is amended to read as follows:

§ 8-02 Administration of the CITYFEPS Programs.

HRA shall administer the CITYFEPS Programs and shall make eligibility determinations in accordance with this [chapter] subchapter.

§ 5. Subdivision (j) of section 8-05 of title 68 of the rules of the city of New York is amended to read as follows:

(j) HRA shall pay the CITYFEPS rent supplement directly to the landlord each month for so long as the program participant’s household remains eligible and funding for the program remains available. In addition to any program participant contribution, the household shall be responsible for any increases in the rent that are authorized under this [chapter] subchapter.

§ 6. Subdivision (a) of section 8-08 of title 68 of the rules of the city of New York is amended to read as follows:

(a) Right to HRA Administrative Review.

An applicant or program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or actions made by HRA under this [chapter] subchapter, as well as any failures to act, or failures to act with reasonable promptness, by HRA in implementing the provisions of this [chapter] subchapter.

§ 7. Chapter 8 of title 68 of the rules of the city of New York is amended by adding a new subchapter B, entitled “The Special Exit and Prevention Supplement Program (“SEPS Program”),” to read as follows:

**Subchapter B: The Special Exit and Prevention Supplement Program (“SEPS Program”)**

**§ 8-10 Definitions.**

For the purposes of this subchapter, the following terms have the following meanings:

(a) “DHS” means the New York City Department of Homeless Services.

(b) A “DHS Shelter for Single Adults” means a shelter for single adults operated by or on behalf of DHS, or a DHS veterans shelter as that term is defined in Section 3-113 of the Administrative Code of the City of New York as added by local law 37 for the year 2011.

(c) A “DHS Shelter for Adult Families” means a shelter for adult families operated by or on behalf of DHS.

(d) “Gross income” means the sum of earned income, as defined and computed as set forth in Section 352.17 of Title 18 of the New York Codes, Rules and Regulations, except that earned income does not include income earned through subsidized employment, and unearned income, as defined and computed as set forth in Section 387.10 of Title 18 of the New York Codes, Rules and Regulations, except that unearned income shall only include such income that is regularly recurring.

(e) The “household” means the individual or individuals who have applied for, have had an application submitted on their behalf for, or are in receipt of SEPS rent supplement payments pursuant to this subchapter, regardless of their eligibility for Public Assistance. The term “household” does not include other individuals residing in a residence within which a program participant is renting a single room.

(f) “HRA” means the New York City Human Resources Administration.

(g) “HRA Shelter” means a domestic violence shelter operated by or on behalf of HRA pursuant to Part 452 of Title 18 of the New York Codes, Rules and Regulations.

(h) A “primary tenant” is the person whose name is on the lease or who has the primary responsibility for payment of the monthly rent for a residence.

(i) A “program participant” or “participant” means an individual who has been approved to participate in the SEPS Program and has entered into a rental agreement for a residence to which a SEPS rent supplement has been or is being applied.

(j) “Public Assistance” means benefits, including monthly grants and shelter allowances, issued under the Family Assistance program pursuant to New York Social Services Law § 349 and/or the Safety Net Assistance program pursuant to New York Social Services Law § 159 and regulations promulgated thereunder.

(k) A “rental agreement” means a lease or other written agreement to rent a residence for at least one year.

(l) The “Special Exit and Prevention Supplement Program” or “SEPS Program” means the rent supplement program described in this subchapter.

(m) “Subsidized employment” means subsidized private sector employment or subsidized public sector employment as those terms are used in New York Social Services Law § 336(1)(b)-(c).

**§ 8-11 Administration of the Special Exit and Prevention Supplement Program.**

HRA shall administer the Special Exit and Prevention Supplement Program, except that initial eligibility determinations pursuant to subdivision (a) of section 8-12 of this chapter shall be made by HRA in consultation with DHS.

**§ 8-12 The Special Exit and Prevention Supplement Program.**

(a) Initial Eligibility.

(1) To be eligible for an initial year of participation in the SEPS Program, a household must meet the following eligibility requirements:

(A) The household must:

(i) include a member who currently resides in a DHS Shelter for Single Adults, and:

(I) resided in a shelter operated by or on behalf of DHS for any period of time between May 1, 2015 and July 31, 2015 and within the twelve months prior to entering a shelter operated by or on behalf of DHS, had been evicted or left a residence located within the City of New York that (a) was the subject of an eviction proceeding; or (b) the member was required to vacate as a result of a vacate order issued by a City agency or a foreclosure action, or for health and safety reasons as determined by a City agency, other than reasons that would make the member eligible for shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations;

(II) resided in a shelter operated by or on behalf of DHS for any period of time between May 1, 2015 and July 31, 2015 and was discharged to a shelter operated by or on behalf of DHS from a residential substance abuse treatment program, residential program or facility licensed or operated by the New York State Office of Mental Health or the New York State Office of Alcoholism and Substance Abuse Services, foster care placement, or correctional institution; or

(III) has previous or current United States military service;

(ii) currently reside in a DHS Shelter for Adult Families and 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, and:

(I) within the twelve months prior to entering a shelter operated by or on behalf of DHS, have been evicted or have left a residence

located within the City of New York that (a) was the subject of an eviction proceeding; or (b) the household was required to vacate as a result of a vacate order issued by a City agency or a foreclosure action, or for health and safety reasons as determined by a City agency, other than reasons that would make the household eligible for shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations; or

(II) include a member who has previous or current United States military service;

(iii) include a member who is eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations as a victim of domestic violence within the meaning of Section 452.2(g) of Title 18 of the New York Codes, Rules and Regulations and New York Social Services Law § 459-a, and:

(I) resides in a DHS Shelter for Single Adults or a DHS Shelter for Adult Families but has not refused placement in an HRA shelter; or

(II) resides in an HRA Shelter, has reached the applicable maximum length of stay permitted under New York Social Services Law § 459-b, and is at risk of entry into a DHS Shelter for Single Adults or a DHS Shelter for Adult Families;

(iv) meet the following criteria:

(I) be at risk of entry into a DHS Shelter for Single Adults or a DHS Shelter for Adult Families as determined by HRA in consultation with DHS; and

(II) within the last twelve months have been evicted from or have lived in a residence located within the City of New York that (a) was or is the subject of an eviction proceeding; or (b) the household was or is required to vacate as a result of a vacate order issued by a City agency or a foreclosure action, or for health and safety reasons as determined by a City agency, other than reasons that would make the household eligible for shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations;

(v) include a member who is at risk of entry into a DHS Shelter for Single Adults or a DHS Shelter for Adult Families, as determined by HRA in consultation with DHS, and has previous or current United States military service; or

(vi) be in receipt of rental assistance pursuant to subchapter C of chapter 7 of this title and have met the requirements of item (i), (ii), (iii), (iv) or (v) of this subparagraph at the time the household was approved to receive such rental assistance.

(B) The household must have total gross income that does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services;

(C) The household must be in receipt of Public Assistance;

(D) The household must have a rental agreement for the residence to which the SEPS rent supplement will be applied and a monthly rent obligation that (i) does not exceed the applicable maximum rent under section 8-13 of this chapter and (ii) is protected from increases for at least one year except as authorized under rent stabilization laws and rules or U.S. Department of Housing and Urban Development regulations;

(E) The residence to which the SEPS rent supplement shall be applied must be located within the City of New York;

(F) The household must apply for any available federal housing assistance program that HRA has determined the household may be eligible for, including but not limited to HUD-Veteran Affairs Supportive Housing, Section 8, and Supportive Services for Veteran Families, and accept the benefit if offered;

(G) The household must agree to have its SEPS rent supplement paid directly to the landlord; and

(H) The household must:

(i) provide accurate, complete and current information on income and household composition; and

(ii) provide supporting documentation as necessary to verify eligibility and the information needed to determine the SEPS rent supplement amount, maximum rent, and any required contributions.

(2) The number of eligible households that can be approved to participate in the SEPS Program will be limited by the amount of available funding. Applications must be submitted on a form and in a format established by HRA.

(3) At the time of approval, HRA will calculate the household's monthly program participant contribution and the maximum monthly rent supplement amount pursuant to section 8-13 of this chapter. Except as provided in section 8-14 of this chapter, the monthly program participant contribution and monthly rent supplement amount will not change during the first year of the program, regardless of changes in household composition or income.

(b) Renewals after the First Year.

(1) Subject to the availability of funding, a household participating in the SEPS Program will receive up to four one-year renewals in the SEPS Program if:

(A) The household's total gross income does not exceed 200 percent of the federal poverty level as established annually by the U.S. Department of Health and Human Services; and

(B) The household provides prompt notice to HRA of any rent arrears that have accrued so that they may be addressed.

(2) A program participant who meets the requirements in paragraph (1) of this subdivision will continue to receive annual renewals after receiving the renewals provided for in that paragraph if the program participant either:

(A) receives social security disability insurance benefits under Title II of the federal Social Security Act or supplemental security income under Title XVI of the federal Social Security Act, or receives a recurring monthly Public Assistance grant and has been determined by HRA to be potentially eligible for such social security disability insurance benefits or supplemental security income based on a documented disability; or

(B) receives compensation for a disability resulting from a line-of-duty injury or disease pursuant to Subchapter II or Subchapter IV of Chapter 11 of Part II of Title 38 of the United States Code, or receives a non-service-connected disability pension pursuant to Subchapter II of Chapter 15 of Part II of Title 38 of the United States Code.

(3) HRA will determine a household's eligibility for renewal in the SEPS Program at the end of each year of the household's participation in the program, subject to the availability of funding. Before the start of each one-year renewal, HRA will recalculate the household's monthly program participant contribution and the monthly rent supplement amount pursuant to section 8-13 of this chapter. Except as provided in section 8-14 of this chapter, the monthly program participant contribution and monthly rent supplement will not change during the one-year renewal period, regardless of changes in household composition or income.

(4) HRA in its discretion may waive any of the requirements in paragraph (1) of this subdivision on a case-by-case basis where non-renewal is likely to result in the household's entry into shelter. HRA may also waive the requirement set forth in subparagraph (B) of paragraph (1) of this subdivision if the household's failure to meet the requirement was due to circumstances beyond its control.

**§ 8-13 Maximum Rents and Calculation of Monthly Program Participant Contributions and Rent Supplements.**

(a) Apartment Rentals.

(1) The maximum monthly rent for an apartment towards which a SEPS rent supplement may be applied during the first year of the rental agreement must not exceed the amounts in the table below:

<u>Household Size</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
<u>Maximum Rent</u>	<u>\$1,213</u>	<u>\$1,268</u>	<u>\$1,515</u>	<u>\$1,515</u>	<u>\$1,956</u>	<u>\$1,956</u>	<u>\$2,197</u>	<u>\$2,197</u>

(2) A program participant contribution of thirty percent of the household's total gross income at the time of approval or renewal plus any amount by which the rent after the first year exceeds the maximum rent for the household's size as set forth in paragraph (1) of this subdivision is required and will be paid by the program participant directly to the landlord each month. Such payments will be deducted from the monthly rent to

determine the monthly rent supplement. HRA shall pay the monthly rent supplement amount 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 one year of rent supplement payments in advance to a landlord who has entered into a lease with a program participant for a unit that was used as a shelter unit operated by or on behalf of DHS immediately prior to lease signing. Any such advance rent supplement payments shall be calculated based on the household size at the time of lease signing. If the household's rent supplement amount would otherwise have been reduced under this section during the year in which rent supplement payments have been paid in advance, the household shall pay the difference to HRA. If the household does not pay the difference to HRA during the year in which rent supplement payments have been paid in advance, HRA has the right to recover such difference from the household.

(3) If HRA determines that due to current market conditions, it is unlikely that households consisting of five or more individuals will be able to secure housing within the next ninety days at the rents permitted under paragraph (1) of this subdivision, HRA may in its discretion increase the maximum rent towards which SEPS rent supplements may be applied pursuant to such paragraph to up to 130 percent of the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for units for the household size.

(b) Room Rentals.

(1) The maximum monthly rent for a single room towards which a SEPS rent supplement may be applied must not exceed \$800 during the first year, except that HRA may make exceptions on a case-by-case basis if the rent is reasonable in relation to current rents for comparable units in the private unassisted market. It is further provided that:

(A) Where the rental agreement is with a primary tenant who receives Public Assistance, the household's monthly rent cannot exceed the difference between the primary tenant's rent obligation to the landlord and the primary tenant's 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; and

(B) In no event shall the household's monthly rent exceed the household's proportionate share of the rent for the entire residence. The determination of what constitutes the participant's proportionate share of the rent shall be based on the formula set forth in Section 2525.7 of Title 9 of the New York Code of Rules and Regulations or a comparable measure.

(2) A program participant contribution of (a) thirty percent of the household's total monthly gross income at the time of approval or renewal plus (b) any amount by which the rent after the first year exceeds \$800 shall be paid by the program participant directly to the landlord or primary tenant, as applicable, each month. The program participant contribution will be deducted from the household's monthly rent or \$800, whichever is less, to determine the monthly rent supplement. HRA shall pay the monthly rent supplement directly to the landlord or the primary tenant, as applicable, each month for so long as the program participant remains eligible and funding for the program remains available.

### **§ 8-14 Moves.**

(a) A household participating in the SEPS Program may not move to a new residence and maintain eligibility for the SEPS Program except with the approval of HRA. The household must obtain such approval prior to moving to a new residence, provided that HRA may consider a request for approval made after the move if a household is unable to obtain such approval prior to the move due to circumstances beyond the household's control.

(b) HRA shall grant approval for a move if the household is moving from a room to an apartment, unless the household is breaking a lease for the room, in which case the household must establish either good cause for the move or that the landlord is willing to release the program participant from the lease. In all other situations, HRA shall grant approval for a move from one residence to another residence only upon a showing by the household that there is good cause for the move. If the requested move is to a residence with a higher rent than the rent for the current residence, approval will also be subject to the availability of funding.

(c) If HRA has approved a move to a new residence, HRA shall recalculate the monthly program participant contribution and monthly rent supplement and those amounts shall not change for one year from the effective date of the rental agreement for the new residence, regardless of changes in income or household composition. If the effective date of the rental agreement for the new residence is not more than ten months after the start of the household's current year of participation in the program, then the household's current year in the SEPS Program shall begin anew on the effective date of such rental agreement. If the effective date of the rental agreement for the new residence is more than ten months after the start of the household's current year in the program and the household is eligible for renewal in the SEPS Program, then the household's renewal period shall begin on the effective date of such rental agreement.

### **§ 8-15 Agency Review Conference and HRA Administrative Appeal Process.**

#### **(a) Right to HRA Administrative Review.**

An applicant or program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or actions made by HRA under this subchapter, as well as any failures to act, or failures to act with reasonable promptness, by HRA in implementing the provisions of this subchapter.

#### **(b) Agency Review Conference.**

(1) If an applicant or program participant requests an agency review conference, HRA shall informally review and attempt to resolve the issues raised.

(2) An applicant or program participant may request an agency review conference without also requesting an HRA administrative hearing. Requesting an agency review conference will not prevent an applicant or program participant from later requesting an HRA administrative hearing.

(3) An agency review conference must be requested no later than sixty days after the challenged determination or action, provided further that if an HRA administrative hearing is scheduled, an agency review conference must be requested reasonably in advance of the scheduled hearing date.

(4) A request for an agency review conference will extend the time period to request an HRA administrative hearing as set forth in paragraph (2) of subdivision (c) of this section to sixty days after the date of the agency review conference.

(c) Request for an HRA Administrative Hearing.

(1) An administrative hearing must be requested in writing. Such written request must be submitted by mail, electronic means or facsimile, or other means as HRA may set forth in an appeals notice.

(2) Except as provided in paragraph (4) of subdivision (b) of this section, a request for an administrative hearing must be made no later than sixty days after the challenged determination or action.

(d) Authorized Representative.

(1) Except where impracticable to execute a written authorization, a person or organization seeking to represent an applicant or program participant must have the applicant's or program participant's written authorization to represent him or her at an agency review conference or administrative hearing and to review his or her case record, provided that such written authorization is not required for an attorney retained by such applicant or program participant. An employee of such attorney will be considered an authorized representative if such employee presents written authorization from the attorney or if such attorney advises HRA by telephone of such employee's authorization.

(2) Once HRA has been notified that a person or organization has been authorized to represent an applicant or program participant at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by HRA to the applicant or program participant relating to the conference and hearing.

(e) Aid Continuing.

(1) If a program participant requests an administrative appeal of a determination by HRA that SEPS rent supplement payments are to be reduced, restricted, suspended or discontinued, such program participant shall have the right to continued receipt of SEPS rent supplement payments at the SEPS rent supplement amount in effect at the time of the determination until the hearing decision is issued pursuant to subdivision (l) of this section, provided that:

(A) The program participant requests the administrative appeal within ten days of the mailing of the notice of such determination; and

(B) The appeal is based on a claim of incorrect computation or an incorrect factual determination.

(2) There is no right to continued SEPS rent supplement payments pursuant to this subdivision where the sole issue on appeal is one of local, State or Federal law or policy, or change in local, State or Federal law.

(3) Rent supplement payments will not continue pending the issuance of a hearing decision when:

(A) The program participant has voluntarily waived his or her right to the continuation of such assistance in writing; or

(B) The program participant does not appear at the administrative hearing and does not have a good cause reason for not appearing.

(4) If a program participant requests an additional appeal pursuant to subdivision (m) of this section, rent supplement payments will continue uninterrupted after issuance of the hearing decision until a written decision is issued pursuant to subdivision (l) of this section.

(f) Notice.

HRA shall provide the applicant or program participant with notice of the date, time, and location of the administrative hearing no fewer than seven calendar days prior to the scheduled date of the administrative hearing, unless the issue underlying the request for an administrative hearing has been resolved and the applicant or program participant has withdrawn his or her hearing request.

(g) Examination of Case Record.

The applicant or program participant or his or her authorized representative has the right to examine the contents of his or her SEPS Program case file and all documents and records that HRA intends to use at the administrative hearing. Upon request by telephone or in writing, HRA shall provide such applicant or program participant with copies of all such documents, and copies of any additional documents in the possession of HRA that the applicant or program participant identifies and requests for purposes of preparing for the administrative hearing. HRA shall provide such documents at no charge reasonably in advance of the administrative hearing. If the request for such documents is made less than five business days before the administrative hearing, HRA must provide the applicant or program participant with copies of such documents no later than at the time of the administrative hearing.

(h) Adjournment.

The administrative hearing may be adjourned for good cause by the administrative hearing officer on his or her own motion or at the request of the applicant or program participant, or HRA.

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by HRA who shall have the power to administer oaths and issue subpoenas and who shall have no prior personal knowledge of the facts concerning the challenged determination or action.

(2) The administrative hearing shall be informal, all relevant and material evidence shall be admissible and the legal rules of evidence shall not apply. The administrative hearing shall be confined to the factual and legal issues raised regarding the specific determination(s) for which the administrative hearing was requested.

(3) The applicant or program participant shall have a right to be represented by counsel or other representative, to testify, to produce witnesses to testify, to offer documentary evidence, to offer evidence in opposition to the evidence presented by

HRA, to request that the hearing officer issue subpoenas, and to examine any documents offered by HRA.

(4) An audio recording, an audio visual recording or written transcript of the administrative hearing shall be made.

(j) Abandonment of Request for Administrative Hearing.

(1) HRA will consider an administrative hearing request abandoned if neither the applicant or program participant nor his or her authorized representative appears at the administrative hearing, unless either the applicant or program participant or his or her authorized representative has:

(A) contacted HRA prior to the administrative hearing to request rescheduling of the administrative hearing; or

(B) within fifteen calendar days of the scheduled administrative hearing date, contacted HRA and provided a good cause reason for failing to appear at the administrative hearing on the scheduled date.

(2) HRA will restore the case to the calendar if the applicant or program participant or his or her authorized representative has met the requirements of paragraph (1) of this subdivision.

(k) Hearing Record.

The recording or written transcript of the hearing, all papers and requests filed in connection with the hearing, and the hearing decision collectively constitute the complete and exclusive record of the administrative hearing.

(l) Hearing Decision.

(1) The hearing officer shall render a decision based exclusively on the hearing record. The decision must be in writing and must set forth the administrative hearing issues, the relevant facts, and the applicable law, regulations and approved policy, if any, upon which the decision is based. The decision must identify the issues to be determined, make findings of fact, state the reasons for the determinations, and when appropriate, direct HRA to take specific action.

(2) A copy of the decision, accompanied by written notice to the applicant or program participant of the right to further appeal and the procedures for requesting such appeal, will be sent to each of the parties and to their authorized representatives, if any.

(m) Additional Appeal.

(1) An appeal from a decision of a hearing officer may be made in writing to the Commissioner of HRA or his or her designee provided it is received by HRA through the procedures described in the notice accompanying the hearing decision no later than fifteen business days after HRA sends the decision. The record before the Commissioner shall consist of the hearing record, the hearing officer's decision and any affidavits, documentary evidence, or written arguments that the applicant or program participant may wish to submit.

(2) The Commissioner or his or her designee shall render a written decision based on the hearing record and any additional documents submitted by the applicant or program participant and HRA.

(3) A copy of the decision, accompanied by written notice to the applicant or program participant of the right to judicial review, will be sent to each of the parties and to their authorized representatives, if any.

(4) Upon issuance, the decision of the Commissioner or his or her designee made pursuant to an appeal under this section is final and binding upon HRA and must be complied with by HRA.

### **§ 8-16 Additional Provisions.**

(a) If a household is eligible for any other rental assistance program described in chapter 7 or 8 of this title, HRA reserves the right to determine, based on administrative and programmatic needs, the program for which the household will be approved or certified.

(b) SEPS rent supplements cannot be combined with any other rent subsidies other than a Public Assistance shelter allowance provided pursuant to Section 352.3 of Title 18 of the New York Codes, Rules and Regulations, except that HRA may make exceptions on a case-by-case basis.

(c) The household must apply for any available federal housing assistance program that HRA has determined the household may be eligible for, including but not limited to HUD-Veteran Affairs Supportive Housing, Section 8, and Supportive Services for Veteran Families, and accept the benefit if offered.

(e) Households are responsible for identifying potential housing. However, shelter staff may provide assistance to individuals in their housing search.

(f) A landlord or primary tenant who has entered into a rental agreement with a program participant is prohibited from demanding, requesting, or receiving any monies, goods or services above the rent or any applicable fees as set forth in the rental agreement regardless of any changes in household composition or income. The cost of heat and hot water must be included in the rent. A landlord or primary tenant who demands, requests or receives any monies, goods or services above the rent or any applicable fees as set forth in the rental agreement will be barred from further participation in any HRA rental assistance programs and may be barred from other rental assistance programs administered by the City of New York. Before placing a landlord or primary tenant on a disqualification list, HRA will provide notice to the landlord or primary tenant and an opportunity to object in writing.

(g) If a household moves or is evicted from the apartment or room to which SEPS rent supplement payments have been applied, the landlord or primary tenant must return any over-payment to HRA.

(h) HRA will not maintain a waitlist for the SEPS Program.

(i) HRA shall provide a household moving expenses, a security deposit voucher equal to one month's rent, and a broker's fee equal to up to one month's rent when available under Section 352.6 of Title 18 of the New York Codes, Rules and Regulations.

(i) If a household includes a person younger than eighteen years of age, SEPS rent supplement payments may not be applied towards a room rental. A household residing in a single room must promptly notify HRA if it intends to add a person younger than eighteen years of age to the household so that HRA can assist the household in implementing a move pursuant to section 8-14 of this chapter.

**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:** Special Exit and Prevention Supplement Program (Non-Emergency Rule)

**REFERENCE NUMBER:** 2015 RG 117

**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 GOULDEN  
Acting Corporation Counsel

Date: October 14, 2015

**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:** Special Exit and Prevention Supplement Program (Non-Emergency Rule)

**REFERENCE NUMBER:** HRA-12

**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/ Guenevere Knowles  
Mayor's Office of Operations

October 14, 2015  
Date