

NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? In order to implement the Mayor's priority of moving families from shelter into stable housing, and in a joint effort with the Commissioner of the New York City Department of Homeless Services (DHS), the Commissioner of the New York City Human Resources Administration (HRA) proposes to add Chapter 7 to Title 68 of the Rules of the City of New York to continue the implementation of three new rental assistance programs, which are targeted to specific populations within the City's homeless shelter system, and which were established by emergency rule on September 5, 2014.

When and where is the hearing? HRA will hold a public hearing on the proposed rule. The public hearing will take place at **1:00PM on November 24, 2014**. The hearing will be held at **HRA, 180 Water Street, 12th Floor Exhibition Center, New York, NY 10038**.

How do I comment on the proposed rules? 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 written comments to constituentsaffairs@hra.nyc.gov. Please include "LINC Proposed Final Rule" in the subject line of your email.
- **Mail.** You can mail written comments to:

New York City Human Resources Administration
The Office of Constituent Services
180 Water Street, 23rd Floor
New York, NY 10038

- **Fax.** You can fax written comments to HRA at 212-331-5998. Please include "LINC Proposed Rule" on the cover page of your fax.
- **Speaking at the hearing.** You can speak at the public 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 written comments? The deadline to submit written comments is **November 24, 2014**.

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 17, 2014**. You can call us at 929-221-5188, send a fax to 917-639-0296, or contact us by mail at:

LINC Rental Assistance Programs
180 Water Street, 2nd Floor
New York, NY 10038
Attention: Public Hearing

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules 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 Social Services Law, sections 603 and 1043 of the New York City Charter, and sections 352.3(a)(3) and 352.6 of Title 18 of the New York Codes, Rules and Regulations 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.¹

¹ In following the process set forth in New York City Charter § 1043, HRA does not waive its right to take the position that any future action, requirement or procedure, or any part thereof, does not meet the definition of a rule under New York City Charter § 1041 and is not subject to this process.

Statement of Basis and Purpose of Proposed Rule

In order to implement the Mayor's priority of moving families from shelter into stable housing, and in a joint effort with the Commissioner of the New York City Department of Homeless Services (DHS), the Commissioner of the New York City Human Resources Administration (HRA) proposes to add Chapter 7 to Title 68 of the Rules of the City of New York to continue implementation of three new rental assistance programs targeted to specific populations within the City's homeless shelter system. These three rental assistance programs, which were established by an emergency rule issued on September 5, 2014, are collectively referred to as the Living in Communities or "LINC" Rental Assistance Programs. The purpose of these programs is to assist low-income working families, vulnerable families, and families whose lives have been affected by domestic violence move out of shelter into stable housing, and to assist those families to remain stably housed in their communities. The LINC I and LINC II programs are joint programs of the City of New York and the State of New York. The LINC III program is a City of New York program.

HRA and DHS submitted plans concerning the LINC I and LINC II programs to the New York State Office of Temporary and Disability Assistance (OTDA) for approval in accordance with Section 352.3(a)(3) of Title 18 of the New York Codes, Rules and Regulations. The plans were so approved by OTDA on August 1, 2014. Because HRA is not seeking State reimbursement for the LINC III program, a plan was not submitted to OTDA for its approval.

The urgent need for these programs is established by census data from DHS establishing that the number of families in the DHS shelter system is at a record high. Census data also demonstrates the urgent need for a rental assistance program targeted to families whose lives have recently been affected by domestic violence. As of June 2014, there were 1,099 families, including 1,917 children, in HRA's domestic violence shelters. Due to a lack of housing resources, nearly 100 families had to enter the DHS shelter system between May and July of 2014 because they had reached the maximum length of stay of 180 days in a domestic violence shelter under State regulation and had no other housing options. As of July 2014, over 1,000 families in the DHS shelter system were survivors of domestic violence certified by HRA.

Subject to an annual review of available funding, the LINC Rental Assistance Programs will consist of three programs: LINC I, LINC II, and LINC III. In the first year of the program:

- LINC I will assist approximately 1,101 families in shelter who are working full-time but are unable to afford stable housing on their own to relocate from the City shelter system;
- LINC II will assist approximately 970 families in shelter who are identified within vulnerable populations and who need additional assistance and supports to relocate from the City shelter system and become securely housed in the community; and
- LINC III will provide rental assistance for up to 1,900 families recently affected by domestic violence to relocate them from the City shelter system, approximately 900 families in HRA domestic violence shelters and approximately 1,000 families in DHS shelters who HRA has certified as survivors of domestic violence.

In all three programs, priority has been and will continue to be given to families who have been in shelter the longest.

The proposed rule sets forth definitions applicable to the chapter (Section 7-01); a general description of responsibility for program administration and eligibility determinations (Section 7-

02); program-specific eligibility, certification, and renewal requirements (Sections 7-03, 7-04, and 7-05); a description of how monthly program participant contributions and the monthly rental assistance amounts are calculated (Section 7-06); review and appeal procedures (Sections 7-07 and 7-08); and additional provisions, including a description of certain program benefits as well as requirements for program participants and participating landlords (Section 7-09).

HRA's authority for this 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 sections 352.3(a)(3) and 352.6 of Title 18 of the New York Codes, Rules and Regulations.

New text is underlined.

“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.

Section 1. Title 68 of the Rules of the City of New York is amended by adding a new chapter 7 to read as follows:

Chapter 7: The Living in Communities (LINC) Rental Assistance Programs

§ 7-01 Definitions.

For the purposes of this chapter, unless otherwise specified, the following terms shall have the following meanings:

(a) The “LINC Rental Assistance Programs” means collectively the LINC I, LINC II and LINC III rental assistance programs described in this chapter.

(b) The “City shelter system” means DHS Shelters and HRA Shelters.

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

(d) A “DHS Shelter” means a shelter for families with children operated by or on behalf of DHS.

(e) “Earned income” is defined and computed as set forth in Section 352.17 of Title 18 of the New York Codes, Rules and Regulations, except that it does not include income earned through subsidized employment.

(f) “Emergency assistance” means benefits issued pursuant to New York Social Services Law § 350-j, Title 8 of Article 5 of the New York Social Services Law, and/or Section 370.3 of Title 18 of the New York Codes, Rules and Regulations.

(g) “Gross income” means the sum of earned income and unearned income.

(h) The “household” means all individuals collectively intended to reside and/or residing together in the place of residence obtained pursuant to this chapter, regardless of their eligibility for Public Assistance.

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

(j) An “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.

(k) "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.

(l) A "program participant" means an individual who has entered into a lease for housing to which LINC rental assistance payments have been or are being applied.

(m) "Unearned income" means all regularly recurring income received during a month, other than earned income and income earned through subsidized employment, and shall include but not be limited to:

- (1) assistance payments from federally funded assistance programs other than Public Assistance, such as Supplemental Security Income (SSI);
- (2) annuities, pensions, retirement, veterans' or disabilities benefits, workers' or unemployment compensation, old-age, survivor's or social security benefits, foster care payments for children or adults, and adoption subsidies;
- (3) support or alimony payments made directly to the household from non-household members;
- (4) scholarships, educational grants, fellowships, deferred payment loans for education, and veterans' educational benefits;
- (5) payments from government-sponsored programs unless otherwise excluded;
- (6) dividends, interest, royalties and all other direct money payments from any source which can be construed to be a gain or benefit; and
- (7) monies which are withdrawn or dividends which are or could be received by a household from trust funds.

(n) "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).

(o) "Unsubsidized employment" means unsubsidized employment as that term is used in New York Social Services Law § 336(1)(a).

§ 7-02 Administration of the LINC I, LINC II, and LINC III Programs.

HRA shall administer the LINC Rental Assistance Programs and shall make eligibility determinations in accordance with this chapter, except that initial eligibility determinations for current shelter residents pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of section 7-03 or 7-04 of this chapter, or paragraph (3) of subdivision (a) of section 7-05 of this chapter, are made by HRA's Family Independence Administration in consultation with DHS's Division of Policy and Planning and Division of Family Services.

§ 7-03 The LINC I Rental Assistance Program.

(a) Initial Eligibility and Certification for the LINC I Program.

(1) To be eligible for an initial year of LINC I rental assistance, a household must meet the following eligibility requirements at the time of certification:

(A) The household must include at least one member who is in receipt of Public Assistance or emergency assistance, and all household members who are eligible for Public Assistance or emergency assistance must be in receipt of such benefits;

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) The household must include at least one member who: (i) is eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations or as determined by HRA pursuant to Sections 452.2(g) and 452.9 of Title 18 of the New York Codes, Rules and Regulations; and (ii) currently resides in the City shelter system;

(D) The household member described in subparagraph (C) of paragraph (1) of this subdivision must have resided in the City shelter system for at least ninety consecutive days prior to certification, excluding gaps of up to three calendar days;

(E) The household must include at least one member who is working and any such member or members must be collectively working at least thirty-five hours per week in unsubsidized employment;

(F) The household must demonstrate earned income for at least ninety days prior to certification; and

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

(2) The number of eligible households that can be certified to receive LINC I rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-09 of this chapter, upon finding that a household has met the eligibility requirements set forth in paragraph (1) of this subdivision and that appropriate funding is available to provide LINC I rental assistance to such household, HRA and/or DHS shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of subparagraphs (A), (B), (C), (E), and (G) of paragraph (1) of this subdivision up to the time when the lease for the housing to which LINC I rental assistance will be applied is executed. Priority will be given to families whose current stays in the City shelter system are the longest.

(3) At the time of certification, HRA will calculate the household's monthly program participant contribution and the maximum monthly rental assistance amount pursuant to subdivision (a) of section 7-06 of this chapter. The monthly program participant contribution and monthly rental assistance 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 in receipt of LINC I rental assistance will receive two one-year renewals of such assistance if it meets the following continued eligibility requirements:

(A) At least one member of the household must be working, and the household's working member or members must be collectively working at least thirty-five hours per week in unsubsidized employment;

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

(C) At least one member of the household must be continually engaged in enhanced employment and social service supports developed in conjunction with a case manager or employment vendor designated by DHS or HRA intended to maintain or enhance the household's employment; and

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

(2) Subject to the availability of funding, households that meet the continued eligibility requirements set forth in paragraph (1) of this subdivision may receive up to two additional one-year extensions after their third year in the LINC I rental assistance program pursuant to a determination by HRA on a case-by-case basis.

(3) HRA will determine a household's eligibility for renewal of LINC I rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Prior to the commencement of each one-year renewal period, HRA will recalculate the household's monthly program participant contribution and the monthly rental assistance amount pursuant to subdivision (a) of section 7-06 of this chapter. The monthly program participant contribution and monthly rental assistance amount will not change during the one-year renewal period, regardless of changes in household composition or income.

§ 7-04 The LINC II Rental Assistance Program.

(a) Initial Eligibility and Certification for the LINC II Program.

(1) To be eligible for an initial year of LINC II rental assistance, a household must meet the following eligibility requirements at the time of certification:

(A) The household must include at least one member who is in receipt of Public Assistance or emergency assistance, and all household members who are eligible for Public Assistance or emergency assistance must be in receipt of such benefits;

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) The household must include at least one member who: (i) is eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the

New York Codes, Rules and Regulations or as determined by HRA pursuant to Sections 452.2(g) and 452.9 of Title 18 of the New York Codes, Rules and Regulations; and (ii) currently resides in the City shelter system;

(D) The household member described in subparagraph (C) of paragraph (1) of this subdivision must have resided in the City shelter system for at least ninety consecutive days prior to certification, excluding gaps of up to three calendar days;

(E) The household must include at least one member who has experienced two or more prior stays in the City shelter system of thirty days or more within five years of the first day of the current shelter stay;

(F) The household must have some income, earned or unearned; and

(G) HRA must have determined that the household will be eligible for Public Assistance upon exit from shelter.

(2) The number of eligible households that will be certified to receive LINC II rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-09 of this chapter, upon finding that a household has met the eligibility requirements set forth in paragraph (1) of this subdivision and that appropriate funding is available to provide LINC II rental assistance to such household, HRA and/or DHS shall issue such household a certification letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of subparagraphs (A), (B), (C), (F), and (G) of paragraph (1) of this subdivision up to the time when the lease for the housing to which LINC II rental assistance will be applied is executed. Priority will be given to families whose current stays in the City shelter system are the longest and among those, further priority may be given to families who are receiving social services from multiple government agencies or who have a member who is in receipt of disability benefits and/or who is an employable adult.

(3) At the time of certification, HRA will calculate the household's monthly program participant contribution and the maximum monthly rental assistance amount pursuant to subdivision (a) of section 7-06 of this chapter. The monthly program participant contribution and monthly rental assistance 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 in receipt of LINC II rental assistance will receive four one-year renewals of such assistance if it meets the following continued eligibility requirements:

(A) At least one member of the household must be continually engaged in ongoing case management activities designed to assist the household member in obtaining, maintaining and/or enhancing employment or to secure any benefits for which such member or household is eligible;

(B) All members eligible for Public Assistance must be in receipt of Public Assistance;

(C) Members of the household receiving Public Assistance must be in compliance with any applicable requirements related to the receipt of such Public Assistance;

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

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

(2) HRA will determine a household's eligibility for renewal of LINC II rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Prior to the commencement of each one-year renewal period, HRA will recalculate the household's monthly program participant contribution and the monthly rental assistance amount pursuant to subdivision (a) of section 7-06 of this chapter. The monthly program participant contribution and monthly rental assistance amount will not change during the one-year renewal period, regardless of changes in household composition or income.

§ 7-05 The LINC III Rental Assistance Program.

(a) Initial and Continued Eligibility and Certification for the LINC III Program.

(1) To be eligible for the LINC III Program, a household must meet the following eligibility requirements:

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

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) The household must, at the time of certification and up to the time when the lease for the housing to which LINC III rental assistance will be applied is executed, include at least one member who:

(i) (A) resides in a DHS shelter and is eligible for shelter as determined by DHS pursuant to Parts 351 and 352 of Title 18 of the New York Codes, Rules and Regulations, or (B) resides in an HRA shelter; and

(ii) is currently 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 Section 459-a of the New York Social Services Law; and

(D) The household must, at the time of certification and up to the time of lease signing, be in compliance with Public Assistance requirements.

(2) The number of eligible households that will be certified to receive LINC III rental assistance will be limited by the amount of available funding. Subject to HRA's exercise of discretion under subdivision (a) of section 7-09 of this chapter, upon finding that a household has met the eligibility requirements set forth in paragraph (1) of this subdivision and that appropriate funding is available to provide LINC III rental assistance to such household, HRA and/or DHS shall issue such household a certification letter.

The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of paragraph (1) of this subdivision. Priority will be given to families who have resided in a DHS Shelter or an HRA Shelter for the longest consecutive periods, families currently residing in an HRA Shelter who have reached the 180-day time limit under New York Social Services Law § 459-b and would otherwise be discharged to a DHS Shelter, and families who are currently residing in a DHS Shelter due to lack of capacity in HRA Shelters or who have been discharged from an HRA Shelter to a DHS Shelter.

(3) At the time of certification, and prior to lease signing, HRA will calculate, pursuant to subdivision (b) of section 7-06 of this chapter, the household's maximum monthly rent amount, the maximum monthly LINC III rental assistance amount and any contributions required to be made by household members not eligible for Public Assistance. The LINC III rental assistance amount and the amounts of any required contributions are subject to change during the household's participation in the LINC III program as set forth in paragraph (8) of subdivision (b) of section 7-06 of this chapter.

(4) A household's continued receipt of LINC III rental assistance is conditioned on the household continuing to meet the requirements of subparagraphs (A) and (B) of paragraph (1) of this subdivision.

(5) In no event shall HRA certify for LINC III rental assistance a household that includes the perpetrator of the domestic violence that resulted in the determination of eligibility for HRA shelter described in subparagraph (C) of paragraph (1) of subdivision (a) of this section.

(b) Renewals after the First Year.

(1) Subject to the availability of funding, a household in receipt of LINC III rental assistance will receive up to four one-year renewals of such assistance if it meets the following continued eligibility requirements:

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

(B) The household must include a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations;

(C) Where such activities are made available to the household, at least one member of the household must be participating in ongoing case management activities developed in conjunction with a case manager or employment vendor designated by DHS or HRA designed to assist the household member in obtaining, maintaining and/or enhancing employment or to secure any benefits for which such member or household is eligible;

(D) Members of the household receiving Public Assistance must be in compliance with any applicable requirements related to the receipt of such Public Assistance;

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

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

(2) HRA will determine a household's eligibility for renewal of LINC III rental assistance at the end of each year of the household's participation in the program, subject to the availability of funding. Prior to the commencement of each one-year renewal period, HRA will recalculate, pursuant to subdivision (b) of section 7-06 of this chapter, the household's maximum monthly rent amount, the maximum monthly rental assistance amount and any contributions required to be made by household members not eligible for Public Assistance. This recalculation is in addition to any recalculations required by paragraph (8) of subdivision (b) of section 7-06 of this chapter.

§ 7-06 Maximum Rents and Calculation of Monthly Program Participant Contributions and Rental Assistance Amounts.

(a) LINC I and LINC II Rental Assistance Programs.

(1) The maximum rent towards which rental assistance may be applied during the first year of any lease towards which LINC I or LINC II rental assistance is applied shall not exceed the amounts set forth in the table below, except that HRA may make exceptions on a case-by-case basis if the rent: (i) is reasonable in relation to current rents for comparable units in the private unassisted market; (ii) is not in excess of current rents for the owner's comparable non-luxury unassisted units; and (iii) does not exceed the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit. If HRA makes such an exception, HRA shall pay the difference between the approved rent and the maximum rent amount set forth in the table below.

<u>Household Size</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>\$1,028</u>	<u>\$1,200</u>	<u>\$1,257</u>	<u>\$1,428</u>	<u>\$1,542</u>	<u>\$1,599</u>	<u>\$1,714</u>

(2) A program participant contribution of thirty percent of the household's total gross income at the time of certification will be required and will be paid by the household directly to the landlord each month. The program participant contribution will be deducted from the maximum rent amount set forth in the table in paragraph (1) of this subdivision to determine the monthly rental assistance amount. HRA shall pay the monthly rental assistance amount 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 the program participant contribution, the program participant shall be responsible for any increases in the rent permitted under paragraph (2) of subdivision (m) of section 7-09 of this chapter.

(b) LINC III Rental Assistance Program.

(1) Except as provided below, the maximum LINC III rental assistance amount and the maximum rent towards which LINC III rental assistance may be applied shall not exceed the amounts set forth in the table below, except that HRA may make exceptions to the maximum rent amounts on a case-by-case basis if the rent: (i) is reasonable in relation to current rents for comparable units in the private unassisted market; (ii) is not in excess of current rents for the owner's comparable non-luxury unassisted units; and (iii) does not exceed the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit. If HRA makes such an exception, HRA shall pay the

difference between the approved rent and the maximum rent amount set forth 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>\$914</u>	<u>\$1,028</u>	<u>\$1,200</u>	<u>\$1,257</u>	<u>\$1,428</u>	<u>\$1,542</u>	<u>\$1,599</u>	<u>\$1,714</u>
<u>Maximum Rental Assistance</u>	<u>\$637</u>	<u>\$745</u>	<u>\$800</u>	<u>\$807</u>	<u>\$927</u>	<u>\$1,018</u>	<u>\$1,053</u>	<u>\$1,168</u>

(2) Except as provided in paragraph (4) of this subdivision, and provided the household remains eligible for LINC III rental assistance, the LINC III rental assistance amount shall be the household's actual rent less the sum of (A) any contributions required to be made in accordance with the provisions of paragraph (6) of this subdivision and (B) the standard Public Assistance shelter allowance as set forth in Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations for the number of members in the household active for Public Assistance, provided that the LINC III rental assistance amount shall not exceed the maximum rental assistance amount for the household size as set forth in paragraph (1) of this subdivision. If the actual rent exceeds the sum of the LINC III rental assistance amount and the standard shelter allowance, the household shall pay directly to the landlord the amount that the actual rent exceeds such sum.

(3) If a household in receipt of LINC III rental assistance receives a Public Assistance shelter allowance less than the standard Public Assistance shelter allowance set forth in Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations, the household shall pay directly to the landlord the difference between the standard Public Assistance shelter amount and the Public Assistance shelter amount that the household receives.

(4) If the household's Public Assistance shelter allowance is reduced pursuant to New York Social Services Law § 342, the LINC III rental assistance amount will be reduced using the same rule applied to reduce the Public Assistance benefits. The household shall pay any reduction amounts directly to the landlord.

(5) If a household is in receipt of the LINC III rental assistance amount and such household's monthly rent obligation increases above the 2014 New York City Housing Authority Section 8 Voucher Payment Standards for the same type of unit after the household's second year in the LINC III rental assistance program, the household shall pay the amount of the rent increase directly to the landlord. In the event of such a rent increase, HRA may make exceptions to the maximum rental assistance amount on a case-by-case basis.

(6) A member of the household who is not in receipt of Public Assistance and who receives income, earned or unearned, must contribute a pro rata share of the rent or thirty percent of his or her gross income, whichever is less, towards rent. If a member of the household is not currently in receipt of Public Assistance, but does not acknowledge receipt of income, earned or unearned, such household member must apply for Public Assistance before the household can be certified for LINC III rental assistance. If such household member is rejected as ineligible, such household member shall be subject to the program participant contribution requirement set forth in this subdivision. Nothing in this paragraph shall be construed to require a person ineligible for Public Assistance on

the basis of his or her immigration status to apply for Public Assistance. An individual contributing a pro rata share of rent or thirty percent of his or her gross income shall not be counted for purposes of determining the LINC III maximum rental assistance amount as set forth in paragraph (1) of this subdivision but may be counted for purposes of determining the maximum rent as set forth in such paragraph, provided that the maximum rent shall not exceed the sum of the maximum rent for the household when such person is not counted and such person's required contribution. Such individual's contribution shall be deducted from the household's actual rent for the purposes of determining the LINC III rental assistance amount as set forth in paragraph (2) of this subdivision.

(7) When an individual ineligible for Public Assistance on the basis of his or her immigration status has income that must be taken into consideration in calculating Public Assistance pursuant to New York Social Services Law § 131-a, such individual shall be included in the household for purposes of determining the maximum rent as set forth in paragraph (1) of this subdivision. Such individual shall not be included in the household for purposes of determining the maximum rental assistance amount as set forth in paragraph (1) of this subdivision and will not be subject to the program participant contribution requirement as set forth in paragraph (6) of this subdivision.

(8) A LINC III rental assistance amount and any contributions required by paragraph (6) of this subdivision shall be increased or reduced as a result of changes in a household's income, composition, or rent, provided that such increased or decreased rental assistance amount and contributions are calculated in accordance with the provisions of this subdivision. LINC III recipients shall promptly inform HRA of changes in income, household composition, or rent that may require an increase or decrease in the LINC III rental assistance amount and/or any required contributions. LINC III recipients will receive a notice from the City of New York of any change in their LINC III rental assistance amount and required contributions.

§ 7-07 Right of Review.

(a) Challenges by Shelter Residents in Receipt of a LINC II Certification Letter and by LINC II Program Participants Regarding LINC II Rental Assistance.

Shelter residents who have received a LINC II certification letter and LINC II program participants shall have the right to seek review pursuant to Part 358 of Title 18 of the New York Code, Rules and Regulations of all determinations and actions made by DHS and/or HRA pursuant to section 7-04 of this chapter.

(b) All Other Challenges.

All other challenges to determinations or actions made by DHS and/or HRA under this chapter, as well as any failures to act, or failures to act with reasonable promptness, by DHS and/or HRA in implementing the provisions of this chapter, shall be governed by the procedures set forth in section 7-08 of this chapter.

§ 7-08 Agency Review Conference and HRA Administrative Appeal Process.

(a) Right to HRA Administrative Review.

A shelter resident or LINC I or LINC III program participant may request an agency review conference and/or an HRA administrative hearing to seek review of any determinations or

actions for which a right to review is provided under subdivision (b) of section 7-07 of this chapter.

(b) Agency Review Conference.

(1) If a shelter resident or LINC I or LINC III program participant requests an agency review conference, HRA shall informally review and attempt to resolve the issues raised.

(2) A shelter resident or LINC I or LINC III program participant may request an agency review conference without also requesting an HRA administrative hearing. Requesting an agency review conference will not prevent a shelter resident or program participant from later requesting an HRA administrative hearing.

(3) Except as provided in paragraph (4) of this subdivision, an agency review conference must be requested within 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) Notwithstanding paragraph (3) of this subdivision, an agency review conference to review a failure by DHS and/or HRA to issue a certification letter pursuant to section 7-03, 7-04 or 7-05 of this chapter may be brought at any time if such household has not received such letter.

(5) 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 (3) of this subdivision and paragraph (5) of subdivision (b) of this section, a request for an administrative hearing must be made within sixty days after the challenged determination or action.

(3) A request for an administrative hearing to challenge a failure by DHS and/or HRA to issue a certification letter under section 7-03, 7-04 or 7-05 of this chapter may be brought at any time if such household has not received such letter.

(d) Authorized Representative.

(1) Except where impracticable to execute a written authorization, a person or organization seeking to represent a shelter resident or LINC I or LINC III program participant must have the shelter resident'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 from an attorney retained by such shelter resident 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 a shelter resident or LINC I or LINC III program participant at an agency review conference or administrative hearing, such representative will receive copies of all correspondence sent by HRA to the shelter resident or program participant relating to the conference and hearing.

(e) Aid Continuing.

- (1) If a LINC I or LINC III program participant requests an administrative appeal of a determination by HRA that rental assistance payments issued under section 7-03 or 7-05 of this chapter are to be reduced, restricted, suspended or discontinued, or that the program participant's household is not eligible for renewal pursuant to subdivision (b) of section 7-03 or subdivision (b) of section 7-05 of this chapter, such program participant shall have the right to continued receipt of LINC I or LINC III rental assistance payments at the rental assistance 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 rental assistance 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) Rental assistance payments will not continue pending the issuance of a hearing decision when:

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

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

- (4) If a LINC I or LINC III program participant requests an additional appeal pursuant to subdivision (m) of this section, rental assistance 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 shelter resident or LINC I or LINC III 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 shelter resident or program participant has withdrawn his or her hearing request.

(g) Examination of Case Record.

The shelter resident or LINC I or LINC III program participant or his or her authorized representative has the right to examine the contents of his or her LINC 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 shelter resident or program participant with copies of all such documents, and copies of any additional documents in the possession of HRA and/or DHS that the shelter resident 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 shelter resident 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 shelter resident or LINC I or LINC III program participant, HRA, or DHS.

(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 shelter resident or LINC I or LINC III 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 and DHS, to request that the hearing officer issue subpoenas, and to examine any documents offered by HRA and DHS.

(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 shelter resident or LINC I or LINC III program participant nor his or her authorized representative appears at the administrative hearing, unless either the shelter resident 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 shelter resident or LINC I or LINC III 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 shelter resident or LINC I or LINC III 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 within at least five business days after the delivery of the hearing officer's 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 shelter resident or LINC I or LINC III 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 shelter resident or LINC I or LINC III program participant and HRA or DHS.
- (3) A copy of the decision, accompanied by written notice to the shelter resident or LINC I or LINC III 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.

§ 7-09 Additional Provisions.

(a) A household may only receive a certification letter for one LINC program. If a household is eligible for two or more LINC programs, HRA and DHS reserve the right to determine, based on administrative and programmatic needs, which LINC program the household will be certified for. HRA and DHS also reserve the right to determine the schedule for release of available funding for each of the LINC programs based on administrative and programmatic needs.

(b) HRA and DHS will refer households in the LINC Rental Assistance Programs to service providers who will assist them with connecting to appropriate services in their communities.

(c) HRA and DHS will evaluate available resources under the United States Department of Housing and Urban Development's Homelessness Prevention and Rapid Re-Housing Program and will utilize these as an alternative to longer term rental assistance, if applicable, prior to determining any household's eligibility for LINC I and LINC II rental assistance.

(d) HRA shall provide moving expenses, a security deposit voucher equal to one month's rent and, if applicable, a broker's fee equal to up to one month's rent, on behalf of a household moving from shelter under one of the LINC Rental Assistance Programs.

(e) Rental assistance provided under any of the LINC Rental Assistance Programs 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.

(f) Rental assistance provided under the LINC Rental Assistance Programs shall be excluded from the household's income for the purpose of determining food stamp benefits pursuant to Part 387 of Title 18 of the New York Codes, Rules and Regulations.

(g) Households in receipt of rental assistance under the LINC Rental Assistance Programs that are unable to make their program participant contributions on account of involuntary job loss or other extenuating circumstances may be eligible for emergency rent assistance and arrears under Part 372 of Title 18 of the New York Codes, Rules and Regulations.

(h) HRA and DHS will not maintain waitlists for the LINC Rental Assistance Programs.

(i) Shelter residents are responsible for identifying potential housing. However, shelter staff may provide assistance to shelter residents in their housing search.

(j) A landlord who signs a lease with a household in receipt of rental assistance under any of the LINC Rental Assistance Programs is prohibited from demanding, requesting, or receiving any amount above the rent or fees as stipulated in the lease agreement regardless of any changes in household composition. A landlord who demands, requests or receives any amount above what is set forth in the lease 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 on a disqualification list, HRA will provide notice to the landlord and an opportunity for the landlord to object in writing.

(k) If a program participant leaves the apartment for which the program participant is receiving LINC I, LINC II, or LINC III rental assistance due to an eviction or move, the landlord must return any over-payment.

(l) Any residence to which LINC rental assistance is applied must pass a City inspection conducted by Housing Quality Standards inspectors employed by the New York City Department of Housing Preservation and Development, working under an agreement with HRA. Section 8 Housing Quality Standards set forth in Section 982.401 of Title 24 of the Code of Federal Regulations will be applied in the inspection process with respect to the physical condition of apartments. The number of persons who can occupy a particular apartment will be evaluated on a case-by-case basis with each household.

(m) As a condition of participating in the LINC Rental Assistance Programs landlords shall be required to:

(1) renew a participating household's lease for a second year at the same monthly rent as provided for in the first year provided that (a) funding for the applicable LINC Rental Assistance Program remains available, and the household has been found eligible by the City for a second year of the program, or (b) the household is able to pay its entire rent for a second year; and

(2) after the second, third and fourth years, renew a participating household's lease at the same total monthly rent provided for as in the previous year, increased by a percentage no greater than that allowed at that time for one-year leases for rent-stabilized apartments in New York City, regardless of whether the housing is subject to rent stabilization, provided that: (a) funding for the applicable program remains available and the participating household has been found eligible by the City for the applicable year of the program, or (b) the participating household is able to pay its entire rent for the applicable year.

NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

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212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Living in Community Rental Assistance Programs (Non-Emergency Rule)

REFERENCE NUMBER: 2014 RG 084

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

Date: October 23, 2014

Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: LINC Rental Assistance Programs

REFERENCE NUMBER: HRA-5

RULEMAKING AGENCY: HUMAN RESOURCES ADMINISTRATION (HRA)

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/ Stephen Narloch
Mayor's Office of Operations

[10/23/2013]
Date