

## NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

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

**What are we proposing?** The New York City Human Resources Administration (HRA) proposes to amend Title 68 of the Rules of the City of New York. The proposed amendments include immediately increasing the maximum rents for CityFHEPS apartments and single room occupancies by setting them at the Section 8 standard adopted by the New York City Housing Authority. HRA also proposes establishing a project-based version of CityFHEPS that will enable the City to provide long-term rental assistance to households moving into permanent housing operated by non-profits under contract with the City. The proposed amendments also include deleting obsolete chapters and subchapters governing rental assistance programs that are now defunct; amending the chapters governing the LINC VI, CityFHEPS, and Pathway Home programs; and making stylistic and technical changes to other provisions.

**When and where is the hearing?** The public hearing will take place remotely via Zoom on Monday, August 30, 2021 at 10:00 am. Those wishing to attend the hearing may join by:

**Zoom (video and audio):**

<https://us02web.zoom.us/j/87610815906>

Or go to [www.zoom.us](http://www.zoom.us), click on “join a meeting” and enter Meeting ID: 876 1081 5906

**Phone (audio only):**

(646) 876-9923. When prompted, enter meeting ID: 876 1081 5906

One tap mobile: +16468769923,87610815906#

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to HRA through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [NYCRules@hra.nyc.gov](mailto:NYCRules@hra.nyc.gov). Please include “Rental assistance amendments” in the subject line.
- **Mail.** You can mail comments to:

HRA Rules  
c/o Office of Legal Affairs  
150 Greenwich Street, 38<sup>th</sup> Floor  
New York, NY 10007

Please make clear that you are commenting on the rental assistance amendments rules.

- **Fax.** You can fax comments to 917-639-0413. Please include “Rental assistance amendments” in the subject line.
- **By speaking at the hearing.** You may sign up to speak at the hearing by calling 929-221-7220 or emailing [NYCRules@hra.nyc.gov](mailto:NYCRules@hra.nyc.gov) on or before the start of the hearing on August 30, 2021. Speakers will be called in the order that they signed up and will be able to speak for up to three minutes.

**Is there a deadline to submit comments?** The deadline to submit comments is midnight on August 30, 2021. Comments, including those sent by mail, must be received by HRA on or before August 30, 2021.

**What if I need assistance to participate in the hearing?** You must tell us if you need language interpretation services or a reasonable accommodation to participate in the hearing. You can tell us by email at [NYCRules@HRA.nyc.gov](mailto:NYCRules@HRA.nyc.gov). You may also tell us by telephone at 929-221-7220. Advance notice is requested to allow sufficient time to make arrangements. Please tell us by August 23, 2021.

**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/>. Shortly after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public on HRA’s website.

**What authorizes HRA to make this rule?** Sections 603 and 1043 of the City Charter and Sections 34, 56, 61, 62, 77, and 131-a of the New York Social Services Law authorize HRA to make this proposed rule.

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

**Was the proposed rule included in HRA’S regulatory agenda?** Yes.

**What laws 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.

**New York City Human Resources Administration  
Statement of Basis and Purpose of Proposed Rule**

To implement recent amendments to the City’s Administrative Code, HRA proposes increasing the maximum rents for apartments and single room occupancies by providing that HRA

will set the maximum rents in accordance with section 982.503 of Title 24 of the Code of Federal Regulations, at the standard adopted by the New York City Housing Authority pursuant to federal law to administer the Section 8 program in New York City. The amendments to the City's Administrative Code take effect in December 2021. HRA proposes to exercise its discretionary authority over the CityFHEPS maximum rents by increasing these maximum rents immediately.

HRA also proposes establishing a project-based version of CityFHEPS that will enable the City to provide long-term rental assistance to households moving into permanent housing operated by non-profits under contract with the City.

#### Background:

In 2014 and 2015, the City launched various tenant-based rental assistance programs, including the Living in Communities (LINC), City Family Eviction Prevention Supplement and City Family Exit Plan Supplement (CITYFEPS) and Special Exit and Prevention Supplement (SEPS) programs, to provide rental assistance for those in shelter or at risk of entering a City shelter.

In September 2017, a settlement in the lawsuit *Tejada v. Roberts*, Index No. 453245/2015 (Sup. Ct. N.Y. Cty.), paved the way for New York State to replace its Family Eviction Prevention Supplement (FEPS) program with an expanded program with higher rent supplement levels. That program is called the State Family Homelessness & Eviction Prevention Supplement (FHEPS) program. Many of the families in HRA's CITYFEPS program and most of the families in the LINC III program were transferred to the State FHEPS program soon after the *Tejada* settlement took effect.

In the fall of 2018, in order to more effectively and efficiently administer the City-funded rental assistance programs targeted at households in or at risk of entering shelter, HRA established the City Fighting Homelessness and Eviction Prevention Supplement (CityFHEPS), a single streamlined program that replaced the LINC I, II, IV and V programs, the SEPS program, and what remained of the LINC III and CITYFEPS programs. With the exception of households participating in LINC VI, households participating in the LINC, CITYFEPS and SEPS programs were transferred to CityFHEPS. LINC VI, a five-year program that provides assistance to households to move in with friends and family, was replaced with Pathway Home, a one-year program offering higher levels of assistance. However, households already participating in LINC VI will continue in that program for so long as they remain eligible.

Because the phase-out of the LINC 1-5, CITYFEPS and SEPS programs is now complete, HRA proposes repealing Subchapters A and B of Chapter 7 (governing LINC 1-5) and Chapter 8 (governing CITYFEPS and SEPS) and amending Chapter 10 (governing CityFHEPS) and Chapter 11 (governing Pathway Home) to remove obsolete references to those programs.

Finally, in addition to increasing the maximum rent levels and establishing a project-based version of CityFHEPS, HRA proposes making other technical changes to the CityFHEPS and Pathway Home rules, including:

- Simplifying the CityFHEPS and Pathway Home definitions of “street homeless.”
- To help prevent potential fraud: Prohibiting a close relative from being the landlord to a CityFHEPS household, and prohibiting a legally responsible relative from being the host to a Pathway Home household (while providing that these prohibitions may be waived for good cause).
- To align with State law: Removing the CityFHEPS rules’ prohibition against authorized midyear rent increases in rent-regulated units.
- To increase the effectiveness of the CityFHEPS program and protect the public fisc: Adding a rent reasonableness requirement to the CityFHEPS maximum rents.
- To align with current practice: Limiting advance rent payments in CityFHEPS “to-stay cases” (where clients are using CityFHEPS to stay in their homes) to only one month upfront and adding the option for any landlord to receive only the first full month of rent upfront.
- Clarifying that CityFHEPS Tenant-Based Rental Assistance can be applied to apartments where the rent has been frozen under SCRIE or DRIE, if the client is otherwise eligible for CityFHEPS.
- To align with current practice: Updating the evaluation conducted by ACS before Pathway Home can be provided, where either the host family or the family on whose behalf Pathway Home is to be provided includes a minor child.

- Making various other stylistic and technical amendments to the rules.

Sections 603 and 1043 of the City Charter and Sections 34, 56, 61, 62, 77, and 131-a of the New York Social Services Law authorize HRA to promulgate this rule.

New material is underlined.

Deleted material is [bracketed]

**Section one.** *Chapter 7 of Title 68 of the Rules of the City of New York is renamed the “Living In Communities Family and Friend Reunification (LINC VI) Rental Assistance Program”.*

**§ 2.** *Subchapters A (LINC I, II, and III) and B (LINC IV and V) of Chapter 7 of Title 68 of the Rules of the City of New York are REPEALED.*

**§ 3.** *Subchapter C of Chapter 7 of Title 68 of the Rules of the City of New York is amended by deleting the subchapter heading, and the provisions that comprise Subchapter C are renumbered and amended to read as follows:*

**[§ 7-18] § 7-01 Definitions.**

For the purposes of this [subchapter] chapter, the following terms shall have the following meanings:

[(a) The "household" means the individuals who have applied for or are in receipt of LINC VI rental assistance pursuant to this subchapter, regardless of eligibility for public assistance.]

(a) “Commissioner” means the Commissioner of DSS or the Commissioner's designee.

(b) "DHS" means the New York City Department of Homeless Services.

(c) “DSS” means the New York City Department of Social Services, which is the entity consisting of HRA and DHS.

[(b)] (d) [The "host] “Host family” means all individuals, other than the household, who are residing or who intend to reside in the residence towards which the LINC VI rental assistance

payments will be applied. [A host] "Host family," shall include the primary occupant and may consist of a single individual.

(e) "Household" means the individuals who are in receipt of LINC VI rental assistance pursuant to this chapter, regardless of eligibility for public assistance.

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

[(c)] (g) [The] "Living in Communities Family and Friend Reunification Rental Assistance Program" or "LINC VI Rental Assistance Program" means the rental assistance program [established pursuant to this subchapter] described in this chapter.

[(d) A "program participant" means a household member who has entered into an agreement for housing to which LINC VI rental assistance payments have been or are being applied.]

[(e) A "primary] (h) "Primary occupant" [is] means the person who has the primary responsibility for payment of the monthly rent for the residence towards which the LINC VI rental assistance payments will be applied or the owner of such residence. The primary occupant must reside in such residence.

(i) "Program participant" means a household member who has entered into an agreement for housing to which LINC VI rental assistance payments have been or are being applied.

### **[§ 7-19] § 7-02 Administration of the LINC VI Rental Assistance Program.**

HRA shall administer the LINC VI Rental Assistance Program[, except that HRA shall make in consultation with DHS initial eligibility determinations pursuant to paragraph (1) of subdivision (a) of section 7-20 of this chapter for households residing in a DHS Shelter].

### **[§ 7-20 Initial Eligibility and] § 7-03 Renewals.**

[(a) Initial Eligibility for the LINC VI Rental Assistance Program.

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

(A) The household must include at least one member who receives Public Assistance, and all household members who are eligible for Public Assistance must receive such benefits.

(B) The household must include:

(i) a child who meets the criteria set forth in Section 369.2(c) of Title 18 of the New York Codes, Rules and Regulations or a pregnant woman and 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;

(II) currently resides in the City shelter system; and

(III) resided in the City shelter system for at least ninety consecutive days, excluding gaps of up to three calendar days;

(ii) a member who meets the description set forth in paragraph (1) of subdivision (b) of section 7-10 of this chapter and resided in a shelter operated by or on behalf of DHS for any period of time between May 1, 2015 and July 31, 2015; or

(iii) a member who meets the description set forth in paragraph (2), (3), or (4) of subdivision (b) of section 7-10 of this chapter.

(C) The household must have identified a host family, consisting of relatives or friends of the household who live in the City of New York, that has agreed to permit the household to reside in its residence and to receive a monthly rent payment from the household that does not exceed the applicable maximum rent set forth in the table in subdivision (a) of section 7-21 of this chapter.

(D) The host family and the host family's residence must meet the requirements of subdivision (j) of section 7-24 of this chapter.

(E) 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.

(2) HRA may waive the requirement, as applicable, for the inclusion of a household member who meets the requirements set forth in items (I)-(III) of clause (i) of subparagraph (8) of paragraph (1) of this subdivision if the household includes at least one member who:

(i) exited the City shelter system no more than ten days before the household member's most recent application for shelter; and

(ii) on the date of the household member's most recent exit from the City shelter system, would have met the requirements set forth in items (I)-(III) of clause (i) of subparagraph (8) of paragraph (1) of this subdivision.

(3) The number of eligible households that can be approved to receive LINC VI rental assistance will be limited by the amount of available funding. Applications must be submitted on a form and in a format established by HRA in consultation with DHS.

(b) Renewals after the First Year.]

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

[(A)] (1) 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;

[(B)] (2) Where such activities are made available to the household, 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; and

[(C)] (3) All members of the household eligible for Public Assistance must receive Public Assistance.

[(2)] (b) HRA will determine a household's eligibility for renewal of LINC VI rental assistance 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 rental assistance amount pursuant to section [7-21] 7-04 [of this chapter]. Except as provided in section [7-22] 7-05 [of this chapter], the monthly rental assistance amount will not change during the one-year renewal period.

[(3)] (c) HRA in its discretion may waive any of the requirements set forth in [paragraph (1) of this subdivision] section 7-03(a) on a case-by-case basis if the household's failure to meet the requirement was due to circumstances beyond the household's control, or where non-renewal is likely to result in the household's entry into shelter.

**[§ 7-21] § 7-04 Maximum Monthly Rent Obligations and Calculation of Rental Assistance Amounts.**

(a) Maximum Monthly Rent.

(1) The household's monthly rent shall not exceed the amounts set forth in the table below:

Household Size	1 – 2	3 – 4	5 or more
Maximum Rent	\$650	\$750	\$1,000

(2) Where the primary occupant receives Public Assistance, the household's monthly rent cannot exceed the difference between the primary occupant's payment obligation for the residence and the primary occupant'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 household's lease or rental agreement.

(3) In no event shall the household's monthly rent exceed the household's proportionate share of the rent for the residence. The determination of what constitutes the household'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] New York Codes, Rules and Regulations or a comparable measure.

(b) Rental Assistance Amount.

(1) The monthly rental assistance amount shall be equal to the household's monthly rent.

(2) HRA shall pay the monthly rental assistance amount directly to the primary occupant of the residence, each month for so long as the household remains eligible, the household continues to reside in the residence, and funding for the program remains available.

**[§ 7-22] § 7-05 Moves.**

(a) A household receiving LINC VI rental assistance may not move to a new residence and maintain eligibility for LINC VI rental assistance except with the approval of HRA and provided that the move must be to a residence within the City of New York. The LINC VI program participant 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 program participant is unable to obtain such approval prior to the move due to circumstances beyond the program participant's control. If the household is moving with its current host family to a new residence, HRA shall grant approval for the move. In all other situations, HRA shall grant approval for a move from one residence to another residence only if the program participant shows that there is good cause for the move. If the requested move would result in an increase in the household's monthly rent, approval will also be subject to the availability of funding.

(b) If HRA has approved a move to a new residence, HRA shall recalculate the monthly rental assistance amount and that amount shall not change for one year from the effective date of the lease or rental agreement for the new residence. If the effective date of the lease or 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 of LINC VI rental assistance shall begin anew on the effective date of such lease or rental agreement. If the effective date of the lease or rental agreement for the new residence is more than ten months after the start of the household's current year of participation in the program and the household is eligible for renewal of LINC VI assistance, then the household's renewal period shall begin on the effective date of such lease or rental agreement.

**[§ 7-23] § 7-06 Agency Review Conference and [HRA] DSS Administrative Appeal Process.**

(a) Right to [HRA] DSS Administrative Review. [An applicant or] A LINC VI program participant may request an agency review conference and/or [an HRA] DSS administrative hearing to seek review of any determinations or actions made by DHS and/or HRA under this [subchapter] 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 [subchapter] chapter.

(b) Agency Review Conference.

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

(2) [An applicant or] A LINC VI program participant may request an agency review conference without also requesting [an HRA] a DSS administrative hearing. Requesting an agency review conference will not prevent [an applicant or] a program participant from later requesting [an HRA] a DSS administrative hearing.

(3) An agency review conference must be requested within sixty days after the challenged determination or action, provided that if [an HRA] a DSS 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] a DSS administrative hearing as set forth in [paragraph (2) of subdivision (c) of this] section 7-06(c)(2) to sixty days after the date of the agency review conference.

(c) Request for [an HRA] a DSS 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] DSS may set forth in an appeals notice.

(2) Except as provided in [paragraph (4) of subdivision (b) of this] section 7-06(b)(4), a request for an administrative hearing must be made within 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] a LINC VI program participant must have the [applicant's or] program participant's written authorization to represent [him or her] them at an agency review conference or administrative hearing and to review [his or her] their case record, provided that such written authorization is not required from 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] DSS by telephone of such employee's authorization.

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

(e) Continued Assistance.

(1) If a LINC VI program participant requests an administrative appeal of a determination by [HRA] DSS that rental assistance payments issued under section [7-21] 7-04 [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 7-20] 7-03(b), [of this chapter,] such program participant shall have the right to continued receipt of LINC VI 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 7-06(l), 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 VI program participant has voluntarily waived [his or her] their right to the continuation of such assistance in writing; or

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

(4) If a LINC VI program participant requests an additional appeal pursuant to [subdivision (m) of this] section 7-06(m), rental assistance payments will continue uninterrupted after issuance of the hearing decision until a written decision is issued pursuant to such [subdivision] section 7-06(m).

(f) Notice. [HRA] DSS shall provide the [applicant or] LINC VI 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] their hearing request.

(g) Examination of Case Record. The [applicant or] LINC VI program participant or [his or her] their authorized representative has the right to examine the contents of [his or her] their 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 [applicant 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 [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] their own motion or at the request of the [applicant or] LINC VI program participant[,], or HRA[, or DHS].

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by [HRA] DSS 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] LINC VI 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 applicant or LINC VI 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 LINC VI program participant or his or her authorized representative has met the requirements of paragraph (1) of this subdivision.]

Absent a request to reschedule an administrative hearing made prior to the hearing date, DSS will consider an administrative hearing request abandoned if neither the LINC VI program participant nor their authorized representative appears at the hearing. However, DSS will restore the case to the calendar if, within fifteen calendar days of the scheduled hearing date, the LINC VI program participant or their authorized representative contacts DSS and provides a good cause reason for failing to appear at the hearing.

(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] LINC VI 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] the Commissioner receives it through the procedures described in the notice accompanying the hearing decision no later than fifteen business days after [HRA] DSS sends 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 [applicant or] LINC VI 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] LINC VI program participant [and] or HRA [or DHS].

(3) A copy of the Commissioner's decision, accompanied by written notice to the [applicant or] LINC VI 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.

**[§ 7-24] § 7-07 Additional Provisions.**

(a) Households in the LINC VI Rental Assistance Program will be referred to service providers who will assist them with connecting to appropriate services in their communities.

[(b) HRA shall provide a household moving from shelter moving expenses and a security deposit voucher equal to one month's rent to the extent available under Section 352.6 of Title 18 of the New York Codes, Rules and Regulations.]

[(c)] (b) Rental assistance provided under the LINC VI Rental Assistance Program cannot be combined with any other rent subsidies, except on a case-by-case basis.

[(d)] Waitlists will not be maintained for the LINC VI Rental Assistance Program.]

[(e)] Shelter residents are responsible for identifying potential host families.]

[(f)] (c) A primary occupant who has entered into a lease or rental agreement with a household receiving LINC VI rental assistance is prohibited from demanding, requesting, or receiving any monies, goods or services above the agreed-upon monthly rental amount. A primary occupant who demands, requests or receives any monies, goods or services above the agreed-upon monthly rental amount 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 primary occupant on a disqualification list, HRA will provide notice to the primary occupant and opportunity for the primary occupant to object in writing.

[(g)] (d) As a condition of participating in the LINC VI [Family and Friend Reunification] Rental Assistance Program, a primary occupant who has entered into a lease or rental agreement with a household receiving LINC VI rental assistance is prohibited from raising the household's monthly rent for one year from the effective date of the lease or rental agreement.

[(h)] (e) The program participant must promptly inform HRA if any new person moves into the residence towards which LINC VI rental assistance payments are being applied.

[(i)] (f) If a program participant is evicted or moves from the residence to which LINC VI rental assistance payments have been or are being applied, the primary occupant must return any over-payment to HRA.

[(j)] (g) Any residence to which LINC VI rental assistance shall be applied must pass a safety and habitability inspection. Additionally, if the household includes a member who is under eighteen years of age, the host family must pass a clearance that shall include, at a minimum, an evaluation of [any information contained in the Statewide Central Register of Child Abuse and Maltreatment concerning any family member and] whether any host family member has an indicated child protective history in New York City or is registered as a sex offender pursuant to Article 6-C of the New York Correction Law.

§ 4. Chapter 7 of Title 68 of the Rules of the City of New York is amended by adding a new section 7-08 to read as follows:

**§ 7-08 LINC VI Rental Assistance Program Expiration and Repeal**

The provisions of this chapter shall expire and this chapter shall be deemed repealed in its entirety on December 31, 2024.

**§ 5.** *Chapter 8 (the CITYFEPS and SEPS Programs) of Title 68 of the Rules of the City of New York is REPEALED.*

**§ 6.** *Sections 10-01 through 10-04 of Chapter 10 of Title 68 of the Rules of the City of New York are amended to read as follows:*

**§ 10-01 Definitions.**

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

(a) "ACS" means the New York City Administration for Children's Services.

(b) [An "apartment"] "Apartment" means a private residence other than an SRO.

(c) "Case management services" means services including, but not limited to, assistance obtaining (1) medical treatment; (2) federal, state and local government documents such as birth certificates, marriage licenses and housing records; and (3) food, medicine and other necessary supplies. Such services shall also include assistance with issues such as domestic violence, child abuse and mental illness, as applicable.

[(c)] (d) "CITYFEPS" means the City Family Eviction Prevention Supplement rental assistance programs [established, pursuant to] previously described in Subchapter A of Chapter 8 of this title.

[(d)] (e) "CityFHEPS" [means the CityFHEPS Program described in this chapter.] or "the CityFHEPS Program," when used in Subchapter A of this chapter, means the program described in Subchapter A, unless otherwise specified. When used in Subchapter B of this chapter, "CityFHEPS" or "the CityFHEPS Program" means the program described in Subchapter B, unless otherwise specified.

[(e)] (f) [A] "CityFHEPS qualifying program" [is] means a City program that the Commissioner has designated as a program from which HRA will accept referrals for [CityFHEPS] the program described in Subchapter A of this chapter, to avert entry to or abbreviate a stay in an HRA or DHS shelter [or abbreviate a stay in an HRA or DHS shelter]. "CityFHEPS qualifying [programs] program" includes the following, in addition to other programs that the Commissioner may designate in the future: (1) referrals from ACS to facilitate an ACS plan for family reunification,

preservation or independent living; (2) referrals from the three-quarter housing task force; (3) referrals from DYCD; or (4) referrals from the New York City Department of Correction.

[(f)] (g) "CityFHEPS rental assistance payments" means rent payments made[,] pursuant to this chapter.

[(g)] (h) [A] "CityFHEPS unit" [is] means a residential unit to which CityFHEPS rental assistance payments are being applied[,] pursuant to this chapter.

[(h)] (i) [The] "Commissioner" means the Commissioner of DSS or the Commissioner's designee.

[(i)] (j) "DHS" means the New York City Department of Homeless Services.

[(j)] (k) [A] "DHS family shelter" [is] means a shelter for families with children or adult families operated by or on behalf of [the] DHS.

[(k)] (l) [A] "DHS single adult shelter" means a shelter for single adults operated by or on behalf of DHS.

[(l)] (m) "DSS" means the New York City Department of Social Services, which is the entity consisting of HRA and DHS.

[(l)] (n) "DYCD" means the New York City Department of Youth and Community Development.

[(m)] (o) "Federal disability benefits" means social security disability insurance benefits under Title II of the federal Social Security Act, supplemental security income under Title XVI of the federal Social Security Act, 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 a non-service-connected disability pension[,] pursuant to Subchapter II of Chapter 15 of Part II of Title 38 of the United States Code.

[(n)] (p) "FHEPS" means the New York State Family Homelessness and Eviction Prevention Supplement program.

[(o)] (q) "FPL" means the federal poverty level as established annually by the United States Department of Health and Human Services.

[(p)] (r) "Gross income" means the sum of: (1) earned income, as defined in Section 352.17(a) of Title 18 of the New York Codes, Rules and Regulations, except that it shall exclude income earned through SYEP; and (2) unearned income, as defined in Section 387.10(b)(3) of such title, except that it shall exclude PA and shall only include income that is regularly recurring. Third party contributions to the rent will not be counted as income. All other income deductions

or exclusions, including those set forth in Sections 387.11 and 387.12 of Title 18 of the New York Codes, Rules and Regulations, shall not be applied when calculating a household's gross income.

[(r)] (s) "HDC" means the New York City Housing Development Corporation.

[(q) The "household"] (t) "Household" means the individual or individuals residing or intending to reside together in the CityFHEPS unit.

(u) "HPD" means the New York City Department of Housing Preservation and Development.

[(r)] (v) "HRA" means the New York City Human Resources Administration.

[(s) An] (w) "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.

[(t)] (x) "LINC VI" means the rental assistance program [established, pursuant to] described in [Subchapter C of] Chapter 7 of this title.

[(w) The "maximum] (y) "Maximum monthly rent" means an amount determined[,] pursuant to section 10-05 of this chapter that the rent for a CityFHEPS unit can generally not exceed during the first year of CityFHEPS rental assistance, and from which the CityFHEPS rental assistance payment amount is calculated.

[(x) The "maximum] (z) "Maximum PA shelter allowance" means the maximum monthly shelter allowance for each PA family size in accordance with the schedules set forth at Section 352.3(a)(1) of Title 18 of the New York Codes, Rules and Regulations.

[(y) An] (aa) "NPA member" [refers to] means an individual who is a member of the CityFHEPS household but is not a member of the PA household for reasons other than[,] pursuant to Section 349.3 of Title 18 of the New York Codes, Rules and Regulations.

[(aa)] (bb) "PA" means public assistance 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.

[(bb) The] (cc) "PA household" [refers to] means the members of the household who apply and are accepted for PA benefits.

[(cc)] (dd) "Pathway Home" means the rental assistance program [established by] described in Chapter 11 of this title.

[(dd) A "primary] (ee) "Primary tenant" [is] means the person whose name is on the lease or who has the primary responsibility for payment of the monthly rent for a residence.

[(ee) A "program] (ff) "Program participant" means an individual who has entered into a lease for a CityFHEPS unit and has not been terminated from the program.

[(ff) (gg) A "qualifying City rental assistance program" means the LINC, SEPS, or CITYFEPS rental assistance program.]

[(gg) A "qualifying] (gg) "Qualifying subsidized employment program" means any subsidized employment program established by HRA[,] pursuant to Sections 385.9(f) or (g) of Title 18 of the New York Codes, Rules and Regulations, or such other subsidized employment program that the Commissioner may designate as a qualifying program in the future.

[(hh) A "rent-controlled] (hh) "Rent-controlled apartment" means a housing accommodation for which the maximum rent is established[,] pursuant to Chapter 3 of Title 26 of the Administrative Code of the City of New York.

[(ii) A "room"] (ii) "Room" means an individual room within an apartment.

(ji) "SCRIE or DRIE Program" means the Senior Citizen Rent Increase Exemption ("SCRIE") or Disability Rent Increase Exemption ("DRIE") Program authorized by sections 467-b and 467-c of the New York Real Property Tax Law and established by Chapters 3, 4 and 7 of Title 26 of the Administrative Code of the City of New York.

[(jj)] (kk) "SEPS" means the Special Exit and Prevention Supplement rental assistance program [established, pursuant to] previously described in Subchapter B of Chapter 8 of this title.

[(kk) A "shopping] (ll) "Shopping letter" [is] means a letter provided to a household to assist it in its housing search that identifies the household as potentially eligible for CityFHEPS and lists the maximum rent.

[(ll) An] (mm) "SRO" [is] means a single room occupancy unit as defined in subdivision 16 of Section 4 of Article 1 of the New York Multiple Dwelling Law.

[(mm)] (nn) "Street homeless" means individuals who: (1) are living on the street or in a place not meant for human habitation and have received] are receiving case management services [for at least 90 days] from a DHS contracted outreach provider. [provider; (2) have received case management services for at least 90 days from a DHS contracted provider at a drop in center or transitional housing setting; or (3) received case management services from a DHS contracted outreach provider, while living on the street or in a place not meant for human

habitation, or at a drop in center or transitional housing setting, were placed in permanent housing and currently receive aftercare services.]

(oo) "Subchapter B provider" means a not-for-profit provider that has entered into a contract with the City to operate units designated as Subchapter B units pursuant to section 10-16.

(pp) "Subchapter B unit" means a unit designated by HRA as a unit towards which CityFHEPS payments may be applied pursuant to Subchapter B of this chapter.

[(nn)] (qq) "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).

[(oo) The] (rr) "SYEP Program" means the Summer Youth Employment Program administered by DYCD to provide New York City residents between the ages of fourteen and twenty-four with opportunities for paid summer employment.

[(pp) The term "three-quarter] (ss) "Three-quarter housing task force" shall have the same meaning as [that term is used] in Section 1(a) of Local Law 13 of 2017.

[(qq)] (tt) "Turning the Tide on Homelessness in New York City" [is] means a publication issued in February 2017 by Mayor de Blasio, Deputy Mayor for Health and Human Services Herminia Palacio and Commissioner Steven Banks. The publication sets forth a comprehensive borough based plan to reduce the footprint of New York City's homeless shelters, transform the City's approach to providing shelter, and drive down the population of homeless New Yorkers relying on shelter through prevention, street homelessness, and permanent housing programs.

[(rr)] (uu) "Unsubsidized employment" [means unsubsidized employment as that term is used] shall have the same meaning as in New York Social Services Law § 336(1)(a).

[(ss) A "veteran" is] (vv) "Veteran" means a person who has served in the armed forces of the United States.

### **§ 10-02 Administration of the CityFHEPS [Program] Programs.**

HRA will administer the CityFHEPS [Program] Programs and will make eligibility determinations in accordance with this [subchapter] chapter. The CityFHEPS Programs will consist of two programs: the tenant-based rental assistance program described in Subchapter A, and the project-based rental assistance program described in Subchapter B. The tenant-based program provides rental assistance for eligible households to use in any unit of their choosing that meets

program requirements. The project-based program provides rental assistance to eligible households that is tied to specific units designated by HRA as Subchapter B units.

## **SUBCHAPTER A**

### **CITYFHEPS: TENANT-BASED RENTAL ASSISTANCE**

#### **§ 10-03: Initial Eligibility, Application and Approval for City Residents Who Are Not in an HRA or DHS Shelter or Street Homeless.**

(a) A household that is not street homeless or in an HRA or DHS shelter must meet the following requirements to be eligible for an initial year of CityFHEPS rental assistance under this subchapter:

- (1) [The] Except as provided in section 10-03(a)(6)(D), the household must have total gross income that does not exceed 200 percent of the FPL.
- (2) If the household is not currently in receipt of PA, the household must apply for any assistance available under Part 352 of Title 18 of the New York Codes, Rules and Regulations.
- (3) All members of the household who are eligible for PA must be in receipt of PA and in compliance with PA requirements.
- (4) If a household is potentially eligible for any federal or State housing benefits, including Section 8 or the HRA HOME TBRA[,] Program described in [pursuant to] Chapter 9 of this title, at HRA's request, the household [must] may be required to apply for such benefits and accept them if offered.
- (5) The household must not be eligible for FHEPS and, unless it meets the requirements of [Section] section 10-08(d) [of this chapter], must not have previously received CityFHEPS rental assistance.
- (6) The household must satisfy any of the criteria below:
  - (A) The household has been determined by the Commissioner to be at risk of homelessness and includes a veteran.
  - (B) Within the last twelve months, the household was evicted from or lived in a residence within the City of New York that was or is the subject of an eviction proceeding or that the household was or is required to vacate as a result of an 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; and [either]

(i) is in receipt of Adult Protective Services under Section 473 of the New York Social Services Law or a community guardianship program under Section 473-d of the New York Social Services Law;

(ii) will be using CityFHEPS to preserve a rent-controlled apartment; or

(iii) has previously resided in a DHS shelter.

(C) The household includes an individual who has been referred by a City agency through a CityFHEPS qualifying program and the Commissioner has determined that due to the particular circumstances of the household, CityFHEPS rental assistance is needed to avert entry to a DHS shelter.

(D) The household [is in receipt of an unexpired LINC certification letter or a SEPS or CITYFEPS shopping letter and would still be eligible for assistance under Chapter 7 or 8 of Title 68 of the Rules of the City of New York. A household may not qualify for CityFHEPS rental assistance under this subparagraph if: (1) more than 120 days have passed after the effective date of this rule or (2) the household is eligible for FHEPS.] has total gross income that does not exceed 250 percent of the FPL and has been referred for a shopping letter pursuant to section 10-21.

(E) The household is currently in receipt of LINC VI or Pathway Home and meets the criteria set forth in [Section] section 10-04(a)(8)(A) or 10-04(a)(8)(B)(i) [of this chapter].

(7) The household must have a lease, other agreement, or regulatory right to rent, for at least one year, a residence in New York City that has passed a safety and habitability assessment. The rent for the unit must be reasonable in comparison to other comparable units in the area where the unit is located and must not exceed the maximum monthly rent, and the household must be protected from rent increases for at least a year, except that[,] if the unit is [an apartment where the household resided immediately prior to receiving CityFHEPS rental assistance and the unit is] subject to government regulations with respect to allowable rents, rent increases authorized under the applicable government regulations will be permitted midyear. If a household includes a person younger than eighteen years of age, the lease or other rental agreement must be for an apartment.

(b) Applications must be submitted on a form and in a format established by HRA.

(c) At the time of approval, HRA will calculate the household's CityFHEPS rental assistance payments[, ] pursuant to [Section] section 10-06 or 10-07 [of this chapter], as applicable. Except as provided in [Section] section 10-09 [of this chapter], the CityFHEPS rental assistance payments will not change [during the household's first year the program] until renewal, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CityFHEPS unit.

**§ 10-04: Initial Eligibility and Approval for Shelter Residents and Persons Who Are Street Homeless.**

(a) A household who is in an HRA or DHS shelter or is street homeless must meet the following requirements to be eligible to receive a shopping letter for CityFHEPS rental assistance under this subchapter:

(1) The household must have total gross income that does not exceed 200 percent of the FPL.

(2) If the household is not currently in receipt of PA, [the household must] HRA may require the household to apply for any assistance available under Part 352 of Title 18 of the New York Codes, Rules and Regulations.

(3) [All members of the household who are eligible for PA must be in receipt of PA and all members in receipt of PA must be in compliance with PA requirements.] Reserved.

(4) If a household is potentially eligible for any federal or State housing benefits, including Section 8 or the HRA HOME TBRA program described in Chapter 9 of this title, at HRA's request, the household [must] may be required to apply for such benefits and accept them if offered.

(5) The household must not be eligible for FHEPS.

(6) If any member of the household has been determined to be eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations, the household must not include the perpetrator of the domestic violence that resulted in such determination.

(7) If the household is currently in a DHS [Family Shelter] family shelter, the household must 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.

(8) The household must be street homeless, reside in a DHS shelter that has been identified for imminent closure, or belong to Group A or B below:

(A) **Group A:** A household will belong to Group A if it satisfies any of the criteria set forth below and either: (1) currently resides in a DHS shelter and either has a qualifying shelter stay pursuant to section 10-04(b) or is eligible for HRA shelter; or (2) currently resides in an HRA shelter:

(i) The household: (AA) includes a member who is under 18 years of age and (BB) is collectively working at least 30 hours per week in unsubsidized employment or in a qualifying subsidized employment program and can demonstrate income from such employment for the last 30 days. However, the Commissioner may waive the requirement that the household collectively work at least 30 hours per week for good cause where the household has a demonstrated, consistent work history and has experienced a recent loss in number of hours worked due to circumstances that are likely to be temporary[.];

(ii) The household consists exclusively of members 18 years of age or older and can demonstrate income from unsubsidized employment or a qualifying subsidized employment program for the last 30 days[.];

(iii) The household includes a member 18 years of age or older who receives federal disability benefits or receives a recurring monthly PA grant and has been determined by HRA to be potentially eligible for federal disability benefits based on their own documented disability;

(iv) The household includes a member who is 60 years of age or older; or

(v) The household includes a member 18 years of age or older who is exempt from PA work activities, pursuant to Section 385.2(b)(5) of Title 18 of the New York Codes, Rules and Regulations.

(B) **Group B:** A household will belong to Group B if it currently resides in an HRA or DHS shelter and satisfies any of the criteria set forth below:

(i) The household includes a veteran[.]; or

[(ii) The household is in receipt of an unexpired LINC certification letter or a SEPS or CITYFEPS shopping letter and would still be eligible for assistance under Chapter 7 or 8 of Title 68 of the Rules of the City of New

York. A household may not qualify for CityFHEPS rental assistance under this subparagraph if: (1) more than 120 days have passed after the effective date of this rule or (2) the household is eligible for FHEPS.]

[(iii)] (ii) The household includes an individual who has been referred by a City agency through a CityFHEPS qualifying program and the Commissioner has determined that due to the particular circumstances of the household, CityFHEPS rental assistance is needed to abbreviate the household's stay in an HRA or DHS shelter.

(b) Qualifying Shelter Stay and Limitations:

(1) Qualifying Shelter Stay: A household in a DHS family shelter will have a qualifying shelter stay for purposes of [Section] section 10-04(a)(8)(A) if the household has resided in a DHS shelter for at least 90 days prior to certification, excluding gaps of up to ten calendar days. An individual in a DHS single adult shelter will have a qualifying shelter stay for purposes of [Section] section 10-04(a)(8)(A) if the individual has resided in a DHS shelter for at least 90 of the last 365 days. Once a household has a qualifying shelter stay, it will not lose its eligibility for a shopping letter[, ] pursuant to [subdivision (c) of this] section 10-04(c) by moving from one type of shelter to another. Similarly, a household who has been street homeless will not lose its eligibility for a shopping letter by entering an HRA or DHS shelter.

(2) Qualifying Shelter Stay Limitations: The Commissioner may set a date by which qualifying shelter stays must commence, for purposes of [Section] section 10-04(a)(8)(A), upon [on] an evaluation of[:] housing market conditions, shelter utilization rates, and the availability of funding, when the Commissioner determines that a limiting date is necessary to maintain the program's viability. The Commissioner may remove such a limiting date upon further review of housing market conditions, shelter utilization rates, and the availability of funding.

(c) When a household has met the eligibility requirements set forth in [subdivision (a) of this] section 10-04(a), the Commissioner shall issue such household a shopping letter. The letter will include an expiration date and will be conditioned on the household continuing to meet the requirements of [paragraph (a) of this subdivision] section 10-04(a) until the time of approval.

(d) Once a household has received a CityFHEPS shopping letter, the [household must have a lease, or other agreement to rent, for at least one year, a residence in New York City that has passed a safety and habitability assessment. The rent for the unit must not exceed the

maximum monthly rent and must be protected from rent increases for at least a year. If a household includes a person younger than eighteen years of age, the lease or other rental agreement must be for an apartment.] household must meet the following additional conditions to be approved for CityFHEPS rental assistance:

(1) The household must have a lease for at least one year for a residence in New York City that has passed a safety and habitability assessment.

(2) If the household includes a person younger than 18 years of age, the lease or other rental agreement must be for an apartment.

(3) The rent for the unit must be reasonable in comparison to other comparable units in the area where the unit is located and must not exceed the maximum monthly rent, or in the case of a unit towards which an additional payment pursuant to section 10-15(h) will be applied, must not exceed the regulatory rent.

(4) The household must be protected from rent increases for at least one year, except that if the unit is subject to government regulations with respect to allowable rents, rent increases authorized under such regulations will be permitted midyear.

(5) If the household is not currently in receipt of PA, the household must apply for any assistance available under Part 352 of Title 18 of the New York Codes, Rules and Regulations.

(6) All members of the household who are eligible for PA must be in receipt of PA and all members in receipt of PA must be in compliance with PA requirements.

(e) At the time of approval, HRA will calculate the household's monthly rental assistance amount[, ] pursuant to [Section] section 10-06 or 10-07 [of this chapter], as applicable. Except as provided in [Section] section 10-09 [of this chapter], the monthly rental assistance amount will not change [during the first year of the program] until renewal, regardless of changes in household composition, income, the maximum monthly rents or the actual rent for the CityFHEPS unit.

*§7. Section 10-05 of Chapter 10 of Title 68 of the Rules of the City of New York is REPEALED and a new section 10-05 is added to read as follows:*

**§ 10-05 Maximum Monthly Rents.**

(a) Except as otherwise provided in section 10-15(h), the maximum monthly rent for an SRO or apartment towards which CityFHEPS rental assistance under this subchapter may be applied

will be set by HRA in accordance with section 982.503 of Title 24 of the Code of Federal Regulations, at the standard adopted by the New York City Housing Authority pursuant to such section. HRA will publish current CityFHEPS maximum monthly rents on HRA's website.

(b) The maximum monthly rent for a room towards which CityFHEPS rental assistance under this subchapter may be applied during the first year of the rental agreement is \$800. For room rentals, it is further provided that:

(1) Where the rental agreement is with a primary tenant who receives PA, the household's monthly rent cannot exceed the difference between the primary tenant's rent obligation to the landlord and the primary tenant's PA 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.

(2) No separate room within a rent-stabilized or rent-controlled apartment may be rented directly from the landlord. If a room in a rent-stabilized apartment is rented from a primary tenant, the household's monthly rent cannot exceed the household's proportionate share of the rent under Section 2525.7(b) of Title 9 of the New York Codes, Rules and Regulations. If a room in a rent-controlled apartment is rented from a primary tenant, the household's rent cannot exceed the amount the primary tenant is being charged by the landlord.

(3) The rent for the room must include heat, hot water, electricity and, if the stove is not electric, cooking gas.

*§ 8. Sections 10-06 through 10-10 of Chapter 10 of Title 68 of the Rules of the City of New York are amended to read as follows:*

**§ 10-06: Calculation of CityFHEPS Rental Assistance Payment Amount – Apartments and SROs.**

(a) Where the CityFHEPS unit is an apartment or SRO, the monthly CityFHEPS rental assistance payment amount will equal the actual monthly rent for the CityFHEPS unit, up to the maximum monthly rent, minus the base program participant contribution[,], as calculated[,], pursuant to [subdivisions (b) and (c) of this] section 10-06(b). [For purposes of this subdivision and calculating the CityFHEPS rental assistance payment amount, a household of one who has transferred from LINC IV to CityFHEPS will be treated as a household of two.]

(b) The base program participant contribution is calculated as follows:

(1) Where no members of the household receive PA, the base program participant contribution is 30 percent of the household's total monthly gross income at the time of approval or renewal. However, if at renewal, or at the time of a recalculation of the [supplement] CityFHEPS rental assistance amount[,], pursuant to [paragraphs (a) or (b) of [Section] section 10-09(a) or 10-09(b) [of this chapter], the household reports no income, the base program participant contribution will equal the maximum PA shelter allowance for the household size.

(2) Where the household includes one or more members receiving PA, the base program participant contribution is the sum of the following: (A) 30 percent of the PA household's total monthly gross income at the time of approval or renewal, or the maximum monthly PA shelter allowance for the total number of PA household members, whichever is greater; and (B) 30 percent of the monthly gross income of any NPA members.

(c) Except as provided in [Section] section 10-09, the CityFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rent, or the actual rent for the CityFHEPS unit.

(d) Upon approval of a [CityFHEPS unit, HRA shall pay to the landlord the first month's rent in full and the CityFHEPS rental assistance payments for the next three months.] household for CityFHEPS rental assistance under this subchapter to be applied to an apartment or SRO, HRA will make the following payments to the landlord:

(1) Where the household is remaining in their residence, HRA will pay in the usual course the first month's rent minus any PA shelter allowance.

(2) Where the household is moving to a new residence, HRA will pay the first month's rent in full plus the CityFHEPS rental assistance payments for the next three months. Notwithstanding the foregoing, HRA will accommodate any request by the landlord to receive only the first month's rent upfront.

(e) [Thereafter,] After making the payments described in section 10-06(d), HRA [shall] will pay the CityFHEPS rental assistance payments 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 additional months of CityFHEPS rental assistance payments in advance where needed to address the goals set forth in the plan entitled Turning the Tide on Homelessness in New York City.

**§ 10-07: Calculation of CityFHEPS Rental Assistance Payment Amount – Rooms.**

(a) Where the CityFHEPS unit is a room, the household's base program participant contribution shall be the greater of the household's actual PA shelter allowance at the time of approval or \$50 and, except as provided in [subdivision (c) of this] section 10-07(c) with respect to the household's first four months in the CityFHEPS rental assistance program, the monthly CityFHEPS rental assistance payment amount will equal the actual monthly rent for the CityFHEPS unit, up to \$800, minus such base program participant contribution.

(b) Except as provided in [Section] section 10-09 [of this chapter], the CityFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CityFHEPS unit.

(c) Upon approval of a [CityFHEPS unit, HRA shall pay to the landlord the first four months' rent in full, except that if the household is receiving a shelter allowance, HRA shall pay the first month's rent in full and the CityFHEPS rental assistance payments for the next three months.] household for CityFHEPS rental assistance to be applied to a room, HRA will make the following payments to the landlord:

(1) Where the household is remaining in their residence, HRA will pay in the usual course the first month's rent minus any PA shelter allowance.

(2) Where the household is moving to a new residence, HRA will pay the first four months' rent in full, unless the household is receiving a PA shelter allowance, in which case HRA will pay the first month's rent in full plus the CityFHEPS rental assistance payments for the next three months. Notwithstanding the foregoing, HRA will accommodate any request by the landlord to receive only the first month's rent upfront.

(d) [Thereafter,] After making the payments described in section 10-07(c), HRA shall pay the CityFHEPS rental assistance payments directly to the landlord each month as long as the household remains eligible and funding for the program remains available.

**§ 10-08: Renewals and Restorations.**

(a) Subject to the availability of funding, except as provided in section 10-11, a household receiving CityFHEPS rental assistance under this subchapter will receive four annual renewals of such assistance if it meets the following continued eligibility requirements:

(1) The household's total gross income does not exceed 250 percent of the FPL;

(2) The household is in substantial compliance with program requirements; and

(3) The household continues to reside in the CityFHEPS unit for which [they were] it was initially approved, or the Commissioner has approved a move to a new unit[,] pursuant to [Section] section 10-10 [of this chapter].

(b) Where a household is not in substantial compliance with program requirements, the Commissioner in the exercise of discretion may renew the household's participation in the CityFHEPS [program] Program if the household establishes good cause for failure to comply with program requirements, consistent with Section 351.26 of Title 18 of the New York Codes, Rules and Regulations.

(c) Subject to the availability of funding, households receiving CityFHEPS rental assistance will continue to receive additional annual renewals after their fifth year in the CityFHEPS rental assistance program if they continue to meet the requirements of [subdivision (a) of this] section 10-08(a) and if, at the time of renewal, one of the following criteria is met:

(1) The household includes a member who is 60 years of age or older.

(2) The household includes a member who:

(A) receives federal disability benefits; or

(B) receives a recurring monthly PA grant and has been determined by the Commissioner to be potentially eligible for federal disability benefits based on their own documented disability.

(3) There is good cause for renewal as long as the household maintains eligibility. Absent extraordinary circumstances, renewals will not be available under this paragraph to households who have not complied with their obligations[,] pursuant to [Section] section 10-12(e) [of this chapter]. The Commissioner will consider the following factors in determining extraordinary circumstances: health and mental health challenges, [department of social services] DSS errors, effort to cure the error, or other circumstances beyond the control of the household.

(d) Subject to the availability of funding, if a household is not renewed for CityFHEPS under this subchapter, it may be restored within one year of termination if the household meets CityFHEPS renewal requirements under this subchapter at the time it applies for restoration. If more than one year has passed since termination, or if the household has been terminated from CityFHEPS under this subchapter after receiving CityFHEPS rental assistance for at least five years, the household may have its CityFHEPS under this subchapter restored only for good cause.

[(e) If a household has transferred to CityFHEPS, pursuant to Section 10-11 of this chapter or has transferred from the LINC VI or Pathway Home programs, the time the household participated in the LINC, LINC VI, CITYFEPS, SEPS or Pathway Home programs shall count towards the five year limit set forth in subdivision (a) of this section, except that, for households transferring from CITYFEPS, LINC VI or Pathway Home less than ten months after the start of the household's current year of participation in such programs, the household's current year in such programs shall be disregarded. However, if the CityFHEPS rental assistance payments begin ten months or more after the start of the household's current year of participation in CITYFEPS, LINC VI or Pathway Home, then the household's current year of participation in such programs shall be counted as a full year.]

[(f)] (e) The Commissioner will determine a household's eligibility for renewal at the end of each year of the household's participation in the program under this subchapter, subject to the availability of funding. Prior to annual renewal, the Commissioner will recalculate the household's CityFHEPS rental assistance payments[,.] pursuant to [Section] section 10-06 or 10-07 [of this chapter], as applicable. Except as provided in [Section] section 10-09 [of this chapter], the CityFHEPS rental assistance payments will not change during the one-year renewal period, regardless of changes in household composition, income, the maximum monthly rents, or the actual rent for the CityFHEPS unit.

**§ 10-09 Adjustments to CityFHEPS Rental Assistance Payment Amount, Discontinuance of Rental Assistance Payments, or Program Termination Prior to Renewal.**

(a) At the household's request, when the household's income has changed in such a manner that would decrease the household's base client contribution, the Commissioner will recalculate the CityFHEPS rental assistance payment amount in accordance with [Section] section 10-06 or 10-07 [of this chapter], as applicable.

(b) In the event that the household's PA shelter allowance increases prior to renewal, such that the sum of the CityFHEPS rental assistance payment and the PA shelter allowance exceeds the household's actual or maximum rent, whichever is less, HRA shall reduce the CityFHEPS rental assistance amount so that it equals the difference between the household's PA shelter allowance and the lesser of the actual or maximum rent.

(c) The Commissioner may discontinue CityFHEPS rental assistance payments if:

- (1) the household leaves the CityFHEPS unit;

- (2) the landlord fails to comply with requirements set forth [at Section] in section 10-14 [of this chapter], whereupon the household may be granted approval to move[,] pursuant to [Section] section 10-10 [of this chapter]; or
- (3) the household's participation in CityFHEPS is terminated, and payments are not continued[,] pursuant to [Section] section 10-13(e).

(d) A household's participation in the CityFHEPS Program may be terminated prior to renewal where the Commissioner determines that the household has failed or refused without good cause to comply with requirements set forth in [Section] section 10-12 [of this chapter].

### **§ 10-10 Moves.**

(a) A household participating in the CityFHEPS Program under this subchapter may not move to a new residence and maintain eligibility for the CityFHEPS Program except with the approval of the Commissioner. The household must obtain such approval prior to moving to a new residence, provided that the Commissioner 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) The Commissioner 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, the Commissioner 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 the Commissioner has approved a move to a new CityFHEPS unit, the Commissioner shall recalculate the monthly CityFHEPS rental assistance payment amount, and that amount shall not change for one year from the effective date of the rental agreement for the new CityFHEPS unit, except as provided in [Section] section 10-09 [of this chapter]. If the effective date of the rental agreement for the new CityFHEPS unit 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 CityFHEPS 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 CityFHEPS Program, then the household's renewal period shall begin on the effective date of such rental agreement.

*§ 9. Section 10-11 of Chapter 10 of Title 68 of the Rules of the City of New York is REPEALED and a new section 10-11 is added to read as follows:*

**§ 10-11 Households Previously in Receipt of LINC, SEPS, CITYFEPS, CityFHEPS Subchapter B or Pathway Home.**

If a household has transferred into the CityFHEPS Program described in this subchapter from the LINC, SEPS, CITYFEPS or Pathway Home programs, or from the CityFHEPS Program described in subchapter B of this chapter, the time the household participated in such programs shall count towards the five-year limit set forth in section 10-08(a) as follows:

(a) For households who transferred from CITYFEPS, CityFHEPS Subchapter B, LINC VI or Pathway Home less than ten months after the start of the household's current year of participation in such programs, the household's current year of participation in such programs at the time of transfer shall be disregarded.

(b) For households who transferred from CITYFEPS, CityFHEPS Subchapter B, LINC VI or Pathway Home ten months or more after the start of the household's current year of participation in such programs, the household's current year of participation in such programs at the time of transfer shall count as a full year.

*§ 10. Sections 10-12 through 10-15 of Chapter 10 of Title 68 of the Rules of the City of New York are amended to read as follows:*

**§ 10-12 Household Requirements.**

(a) The household must:

- (1) provide accurate, complete and current information on income and household composition; and
- (2) provide supporting documentation as necessary to verify eligibility and the information needed to determine the CityFHEPS rent supplement amount, maximum monthly rent, and any required contributions by household members.

(b) The household must agree to have its CityFHEPS rent supplement paid directly to the landlord.

- (c) All members of the household who are eligible for PA must be in receipt of PA.
- (d) If a household is potentially eligible for any federal or State housing benefit, including Section 8 or FHEPS, at HRA's request, the household [must] may be required to apply for such benefits and accept them if offered.
- (e) The household must pay to the landlord each month the difference between the CityFHEPS rental assistance amount and the household's rent, minus any PA shelter allowance and any third party contributions actually paid to the landlord and, if the household falls behind in the rent, must promptly report any arrears to the Commissioner.
- (f) The household must promptly notify the Commissioner if the household moves out of the CityFHEPS unit.
- (g) The household must promptly notify the Commissioner if the program participant is served with eviction papers.
- [(h) Reserved.]
- [(i)] (h) The household must file for all work supports for which the household is entitled. These may include public benefits and tax credits, such as the Earned Income Tax Credit (EITC), the Child Tax Credit (CTC) and the Child Care Tax Credit (CCTC).
- [(j)] (i) The household must take all reasonable and appropriate actions and seek all appropriate services as necessary to preserve the program participant's tenancy and work towards self-sufficiency, including, but not limited to, such services as job placement, landlord-tenant mediation, financial counseling and anti-eviction services. Households can receive assistance or referrals for these services from their designated service provider or local HomeBase office.
- [(k)] (j) A program participant renting a room or an SRO must promptly notify the Commissioner if [it intends] they intend to add a person younger than [eighteen] 18 years of age to the household and must request approval to move to an apartment[,], pursuant to [Section] section 10-10.
- [(l)] (k) If any member of the household has been determined to be eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations, the household must not include the perpetrator of the domestic violence that resulted in such determination.
- [(m)] (l) The household must otherwise cooperate fully with the City in its administration of the CityFHEPS Program.

## **§ 10-13 Agency Review Conference and DSS Administrative Appeal Process.**

(a) Right to DSS Administrative Review. An applicant, shelter resident, current or former program participant, or household member may request an agency review conference and/or a DSS administrative hearing to seek review of any determinations or actions made under this [subchapter] chapter, as well as any failures to act, or failures to act with reasonable promptness, in implementing the provisions of this [subchapter] chapter.

(b) Agency Review Conference.

(1) If an individual requests an agency review conference[, ] pursuant to [subdivision (a) of this] section 10-13(a), HRA shall informally review and attempt to resolve the issues raised.

(2) An individual may request an agency review conference without also requesting a DSS administrative hearing. Requesting an agency review conference will not prevent an individual from later requesting a DSS administrative hearing.

(3) An agency review conference must be requested within sixty days after the challenged determination or action, provided further that if a DSS 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 a DSS administrative hearing as set forth in [paragraph (2) of subdivision (c) of this] section 10-13(c)(2) to sixty days after the date of the agency review conference.

(c) Request for a DSS Administrative Hearing.

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

(2) Except as provided in [paragraph (4) of subdivision (b) of this] section 10-13(b)(4), a request for an administrative hearing must be made within 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 individual who has requested a conference or hearing under this section must have the individual's written authorization to represent [him or her] them at an agency review conference or administrative hearing and to review their case record, provided that such written authorization is not required from an

attorney retained by such individual. 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 DSS by telephone of such employee's authorization.

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

(e) [Aid Continuing] Continued Assistance.

(1) If a program participant requests an administrative appeal of a determination that CityFHEPS rental assistance payments are to be reduced, restricted, suspended or discontinued, such program participant shall have the right to continued receipt of CityFHEPS rental assistance payments in the amount in effect at the time of the determination until the hearing decision is issued[,] pursuant to [subdivision (l) of this] section 10-13(l), 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 CityFHEPS 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) CityFHEPS rental assistance payments will not continue pending the issuance of a hearing decision when:

(A) The program participant has voluntarily waived their 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 10-13(m), CityFHEPS 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 10-13(m).

(f) Notice. DSS shall provide the individual who has requested a hearing under this section 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 individual has withdrawn their hearing request.

(g) Examination of Case Record. The individual who has requested a conference or hearing under this section or their authorized representative has the right to examine the contents of their CityFHEPS [program] Program case file, if one exists, 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 individual with copies of all such documents, and copies of any additional documents in the possession of HRA that the individual 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 individual 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 their own motion or at the request of the individual who requested the hearing or their authorized representative, or HRA.

(i) Conduct of Administrative Hearing.

(1) The administrative hearing shall be conducted by an impartial hearing officer appointed by DSS 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 individual who requested the hearing 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) DSS will consider an administrative hearing request abandoned if neither the individual who requested the hearing nor their authorized representative appears at the administrative hearing, unless either the individual or their authorized representative has:

(A) contacted DSS 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 DSS and provided a good cause reason for failing to appear at the administrative hearing on the scheduled date.

(2) DSS will restore the case to the calendar if the individual who requested the hearing or their authorized representative has met the requirements of paragraph (1) of this subdivision.]

Absent a request to reschedule an administrative hearing made prior to the hearing date, DSS will consider an administrative hearing request abandoned if neither the program participant nor their authorized representative appears at the hearing. However, DSS will restore the case to the calendar if, within fifteen calendar days of the scheduled hearing date, the program participant or their authorized representative contacts DSS and provides a good cause reason for failing to appear at the hearing.

(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. 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.

(1) A copy of the decision will be sent to each of the parties and to their authorized representatives, if any. The decision shall include written notice to the individual who had requested the hearing of the right to further appeal and the procedures for requesting such appeal.

(2) HRA is not bound by a hearing decision that exceeds the authority of the hearing officer or that is contrary to federal, State, or local law or these rules. If the Commissioner determines that HRA is not bound by a hearing decision, the Commissioner shall promptly notify the individual who had requested the hearing of such determination, and of the reasons for the determination. Such notification shall be in writing and shall also inform the individual of the right to judicial review.

(m) Additional appeal.

(1) An appeal from a decision of a hearing officer may be made in writing to the Commissioner provided [it is received by DSS] the Commissioner receives it through the procedures described in the notice accompanying the hearing decision no later than fifteen business days after DSS sends 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 applicant or program participant may wish to submit.

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

(3) A copy of the Commissioner's decision, including 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 made[,] pursuant to an appeal under this section is final and binding upon HRA and must be complied with by HRA.

#### **§ 10-14 Landlord Requirements.**

(a) A landlord who signs a lease or other rental agreement with a household in receipt of CityFHEPS rental assistance is prohibited from demanding, requesting, or receiving any amount above the rent or reasonable fees as stipulated in the lease or rental agreement regardless of any changes in household composition.

(b) When HRA issues monthly CityFHEPS rental assistance payments and monthly PA shelter allowance payments (if any) in full by the final day of the month, these payments will be deemed timely paid towards the CityFHEPS unit's rent for that month, regardless of any provisions in the CityFHEPS unit lease to the contrary.

- (c) Landlords [are required to] must accept the HRA security voucher in lieu of a cash security deposit and may not request any additional security from the client.
- (d) Landlords must not move a household from one unit to another without the prior written approval of both HRA and the household.
- (e) Landlords must notify HRA within 5 business days of learning that the household no longer resides in the unit towards which CityFHEPS rental assistance is being applied.
- (f) Landlords must notify HRA within 5 business days if any legal proceeding affecting the program participant's tenancy is commenced.
- (g) Landlords must notify HRA promptly if the landlord, the owner of the subject premises, or the management company of the subject premises changes.
- (h) If the household no longer resides in a CityFHEPS unit, the landlord must return any payments from HRA for any period of time the household was not residing in the unit.
- (i) Landlords must promptly return to the City any overpayments, including but not limited to monies paid in error or made as a result of inaccurate, misleading or incomplete information submitted by the landlord in connection with the CityFHEPS Program.
- (j) Landlords may be banned from participation in City rental assistance programs for violations of any of the landlord requirements. 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.

#### **§ 10-15 Additional Provisions.**

- (a) CityFHEPS rental assistance cannot be combined with any other rent subsidies except with the prior approval of the Commissioner where combining the subsidies is practicable and not contrary to law, [but] except that CityFHEPS rental assistance may be used with a PA shelter allowance provided[,] pursuant to Section 352.3 of Title 18 of the New York Codes, Rules and Regulations and can be applied towards a rent that has been frozen pursuant to the SCRIE or DRIE Program where the household is otherwise eligible for the CityFHEPS Program.
- (b) Applicants and shelter residents are responsible for identifying potential housing. However, shelter staff will provide assistance to HRA and DHS shelter residents in their housing search. Additionally, shelter residents and others [whi] who have been found to be potentially eligible for CityFHEPS rental assistance will be provided with a CityFHEPS shopping letter.
- (c) HRA shall not maintain a waitlist for the CityFHEPS [program] Program.
- (d) The number of eligible households that can be approved for CityFHEPS rental assistance [under this section] will be limited by the amount of available funding.

(e) A LINC VI program participant holding a lease for a unit that is subject to government regulations with respect to allowable rents as of the effective date of this rule will be permitted to accept a renewal of their lease at the rate authorized by any government entity authorized by local, state or federal law to set rents without prejudice to their eligibility for CityFHEPS.

(f) Households in the CityFHEPS [program] Program will be referred to service providers who will help connect them to appropriate services in their communities.

(g) If HRA offers incentives to landlords to participate in the CityFHEPS [program] Program, such incentives shall not be available for the rental of a unit where the previous tenant was receiving CityFHEPS[, FHEPS or rental assistance under Chapter 7 or 8 of this title,] unless the landlord can show good cause for not renewing such tenant, such as serious or repeated violations of the lease. Good cause will generally not be found unless the landlord has provided the tenant with 30 days written notice of the intent to not renew, including the reasons for non-renewal.

(h) Notwithstanding any provisions in this chapter to the contrary, HRA in its discretion may offer payments to landlords of units that are subject to the [New York City Department of Housing Preservation and Development (“HPD”)/New York City Housing Development Corporation (“HDC”)] HPD/HDC Marketing Handbook pursuant to a regulatory agreement or similar instrument, for which HPD or HDC is requiring or approving such units to be filled by homeless individuals or families instead of or subsequent to a lottery, where such payments are needed to make up the difference between the CityFHEPS maximum rent under section 10-05 and the regulatory rent. In such instances, the rent for the unit may exceed the maximum rent levels set forth in section 10-05, including at the time of initial approval of the CityFHEPS application, but may not exceed the regulatory rent.

(i) A landlord may not be the spouse, domestic partner, parent, child, step-parent, step-child, grandparent, grandchild, sibling or step-sibling of any member of the household. This requirement may be waived for good cause.

**§ 11.** *Chapter 10 of Title 68 of the Rules of the City of New York is amended by adding a new Subchapter B to read as follows:*

#### **SUBCHAPTER B**

#### **CITYFHEPS: PROJECT-BASED RENTAL ASSISTANCE**

### **§ 10-16 Subchapter B Units.**

(a) HRA will designate certain housing units in New York City as Subchapter B units towards which rental assistance under this subchapter may be applied. Subchapter B units will be operated by not-for-profit providers pursuant to contracts with the City and will be targeted to specific populations within DHS shelters who meet the requirements set forth in section 10-03(a)(1)-(6) or section 10-04(a). Subchapter B units may consist of an entire building or a substantial number of units within a building. HRA will designate Subchapter B units based on factors including the provider's capacity, geographic location and demonstrated level of organizational capability, and the best interests of the City.

(b) Tenants of Subchapter B units must have either an occupancy agreement or a rent-stabilized lease with a Subchapter B provider. The rents shall be set by contract and be equal to the lesser of the legal rent for the unit or the maximum rent set by HRA pursuant to section 10-05.

(c) Subchapter B providers must make case management services available to tenants of Subchapter B units.

### **§ 10-17 Initial Eligibility.**

To be eligible for an initial year of CityFHEPS rental assistance under this subchapter, a household must meet the requirements of section 10-03(a)(1)-(6) or section 10-04(a) and, after receiving a referral from HRA, have applied for and been accepted into a Subchapter B unit.

### **§ 10-18 Calculation of the CityFHEPS Rental Assistance Payment Amount.**

(a) The monthly CityFHEPS rental assistance payment amount on behalf of a household under this subchapter will be calculated pursuant to section 10-06(a) and (b), using the maximum rents set forth in section 10-05.

(b) Except as provided in section 10-20, a household's CityFHEPS rental assistance payments will not change until renewal, regardless of changes in household composition, income, the maximum monthly rent, or the actual rent for the Subchapter B unit.

(c) Payment of the monthly CityFHEPS rental assistance amount will be made pursuant to contract between the City and the not-for-profit provider operating the Subchapter B unit. When a household leaves a Subchapter B unit, HRA will make all reasonable efforts to assist the

provider in assigning the unit to another eligible household to minimize or eliminate any gap in rent payments to the provider.

**§ 10-19 Renewals and Restorations.**

(a) Subject to the availability of funding, a household receiving CityFHEPS rental assistance under this subchapter will receive annual renewals of such assistance for as long as it continues to meet the following eligibility requirements:

(1) The household is in substantial compliance with program requirements; and

(2) The household continues to reside in the unit for which it was approved to receive CityFHEPS rental assistance payments, and the unit continues to be designated as a Subchapter B unit.

(b) Where a household is not in substantial compliance with program requirements, the Commissioner in the exercise of discretion may renew the household's participation in the CityFHEPS Program if the household establishes good cause for failure to comply with program requirements, consistent with Section 351.26 of Title 18 of the New York Codes, Rules and Regulations.

(c) Subject to the availability of funding, if a household is not renewed for CityFHEPS under this subchapter, the household may be restored within one year of termination if it meets the renewal requirements under this subchapter at the time it applies for restoration, except that a household that has been terminated pursuant to section 10-20(e) may be restored at any time if it meets the renewal requirements under this subchapter at the time it applies for restoration and its CityFHEPS rental assistance amount is calculated to be above zero. If more than one year has passed since termination, the household may have its CityFHEPS under this subchapter restored only for good cause.

(d) The Commissioner will determine a household's eligibility for renewal at the end of each year of the household's participation in the program under this subchapter, subject to the availability of funding. Prior to annual renewal, the Commissioner will recalculate the household's CityFHEPS rental assistance payments pursuant to section 10-18. Except as provided in section 10-20, the household's CityFHEPS rental assistance payments will not change during the one-year renewal period, regardless of changes in household composition or income.

**§ 10-20 Adjustments to CityFHEPS Rental Assistance Payment Amount, Discontinuance of Rental Assistance Payments, and Program Termination Prior to Renewal.**

(a) At the household's request, when the household's income has changed in such a manner that would decrease the household's base client contribution, the Commissioner will recalculate the CityFHEPS rental assistance payment amount in accordance with section 10-18.

(b) If a household's PA shelter allowance increases prior to renewal such that the sum of the CityFHEPS rental assistance payment and the PA shelter allowance exceeds the household's rent, HRA shall reduce the CityFHEPS rental assistance amount so that it equals the difference between the household's PA shelter allowance and the rent.

(c) The Commissioner will discontinue CityFHEPS rental assistance payments on behalf of a household under this subchapter if:

(1) The household leaves the Subchapter B unit;

(2) The unit loses its designation as a Subchapter B unit; or

(3) The household's participation in CityFHEPS is terminated and the household is not receiving continued assistance pursuant to section 10-13(e), as incorporated into to this subchapter pursuant to section 10-23.

(d) The Commissioner may terminate a household's participation in the CityFHEPS Program prior to renewal if the Commissioner determines that the household has failed or refused without good cause to comply with the requirements set forth in section 10-22.

(e) The Commissioner will terminate a household's participation in the CityFHEPS Program prior to renewal if the household's rental assistance amount has been zero for more than one year.

**§ 10-21 Moves and Referrals to CityFHEPS Subchapter A.**

For good cause, HRA may grant approval for a move from one Subchapter B unit to another or a referral for a Subchapter A shopping letter. For purposes of this section, good cause includes when a Subchapter B unit has lost or will lose its designation as a Subchapter B unit, or when the household's size has decreased resulting in a difference between the rent and the CityFHEPS rental assistance amount that is greater than 40 percent of the household's total monthly gross income.

## **§ 10-22 Household Requirements.**

(a) The household must:

(1) Provide accurate, complete and current information on income and household composition;

(2) Provide supporting documentation as necessary to verify eligibility and the information needed to determine the CityFHEPS rental assistance payment amount, maximum monthly rent, and any required contributions by household members; and

(3) Agree to have its CityFHEPS rental assistance payments paid directly to the landlord.

(b) The household must pay to the landlord each month the difference between the CityFHEPS rental assistance payment amount and the household's rent, minus any PA shelter allowance and any third party contributions paid to the landlord.

(c) The household must promptly notify the landlord if its total monthly gross income decreases or its household size changes. If the household resides in an SRO and plans to add to the household a person under the age of 18, it must inform the landlord immediately so that the household can be given the opportunity to seek approval to move to an appropriate unit pursuant to section 10-21.

(d) If any member of the household has been determined to be eligible for HRA shelter under Section 452.9 of Title 18 of the New York Codes, Rules and Regulations, the household must not include the perpetrator of the domestic violence that resulted in such determination.

(e) The household must otherwise cooperate fully with the City in its administration of the CityFHEPS Program.

## **§ 10-23 Agency Review Conference and DSS Administrative Appeal Process.**

Section 10-13 is incorporated by reference into this subchapter. For purposes of this subchapter, any reference in section 10-13 to "CityFHEPS" or "the CityFHEPS Program" shall be deemed a reference to the program described in this subchapter. An applicant, shelter resident, current or former program participant, or household member may request an agency review conference and/or a DSS administrative hearing to seek review of any determinations or actions made under this subchapter, as well as any failures to act, or failures to act with

reasonable promptness, in implementing the provisions of this subchapter, as set forth in section 10-13. However, the agency review conference and administrative appeal process may not be used to challenge HRA's decision to designate a unit as a Subchapter B unit or to remove a unit's designation as a Subchapter B unit.

**§ 12.** *Subdivision (p) of Section 11-01 of Chapter 11 of Title 68 of the Rules of the City of New York is amended to read as follows:*

(p) "Street homeless" means individuals who: (1) are living on the street or in a place not meant for human habitation and have received] are receiving case management services [for at least 90 days] from a DHS contracted outreach provider; (2) have received case management services for at least 90 days from a DHS contracted outreach provider at a drop in center or transitional housing setting; or (3) received case management services from a DHS contracted outreach provider while living on the street or in a place not meant for human habitation, or at a drop in center or transitional housing setting, were placed in permanent housing and currently receive aftercare services].

**§ 13.** *Subdivisions (a) and (b) of Section 11-03 of Chapter 11 of Title 68 of the Rules of the City of New York are amended to read as follows:*

(a) To be eligible for Pathway Home, a household must meet the following eligibility requirements:

(1) The household must meet one of the following conditions:

(A) The household resides in DHS shelter and

(i) has a qualifying shelter stay as defined in subdivision (b) of this section;  
or

(ii) has a CityFHEPS shopping letter pursuant to [Section] section 10-04(c) of this [chapter] title;

(B) The household is street homeless; or

(C) The household includes an individual with a significant prior stay in DHS shelter who was discharged from the custody of the New York City Department of

Correction, and the Commissioner has determined that Pathway Home is needed to avert the individual's re-entry to a DHS shelter.

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

(3) If the household is not currently in receipt of PA, the household must apply for any assistance available under Part 352 of Title 18 of the [New York Code of Rules and Regulations] New York Codes, Rules and Regulations that HRA has determined the household may be eligible for.

(4) All members of the household who are eligible for PA must be in receipt of PA.

(5) If the household is currently in a DHS family shelter, the household must 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.

(6) HRA must not have previously made Pathway Home payments on the household's behalf.

(7) The household must have identified a host family, consisting of relatives or friends of the household who live in the City of New York, that has agreed to permit the household to reside in its residence and to receive a monthly payment from HRA on the household's behalf that does not exceed the amounts set forth in the table in [Section] section 11-04 [of this chapter].

(8) The host family and the host family's residence must meet the requirements of [Section] section 11-07(h) [of this chapter].

(b) Qualifying Shelter Stay and Limitations.

(1) Qualifying Shelter Stay. A resident of a DHS family shelter will have a qualifying shelter stay for purposes of section 11-03(a)(1)(A)(i) if the household has resided in an HRA or DHS shelter for at least 90 days prior to approval, excluding gaps of up to ten calendar days. A resident of a DHS single adult shelter will have a qualifying shelter stay for purposes of section 11-03(a)(1)(A)(i) if the individual has resided in an HRA or DHS shelter for at least 90 of the 365 days prior to approval.

(2) Qualifying Shelter Stay Limitations. The Commissioner may set a date by which qualifying shelter stays must commence, for purposes of [Section 11-03(a)(1)(A)(i),] section 11-03(b)(1), upon an evaluation of: housing market conditions, shelter utilization

rates, and the availability of funding, when the Commissioner determines that a limiting date is necessary to maintain the program's viability. The Commissioner may remove such a limiting date upon further review of housing market conditions, shelter utilization rates, and the availability of funding.

**§ 14.** *Subdivision (h) of Section 11-07 of Chapter 11 of Title 68 of the Rules of the City of New York are amended to read as follows:*

(h) Any host family residence must pass a safety and habitability inspection. Additionally:

- (1) If the household includes a member who is under eighteen years of age, the host family must pass a clearance that shall include, at a minimum, an evaluation of [any information contained in the Statewide Central Register of Child Abuse and Maltreatment concerning any family member and] whether any host family member has an indicated child protective history in New York City or is registered as a sex offender pursuant to Article 6-C of the New York Correction Law.
- (2) If the host family includes a member who is under eighteen years of age, the household must pass a clearance that shall include, at a minimum, an evaluation of [any information contained in the Statewide Central Register of Child Abuse and Maltreatment concerning any household member and] whether any household member has an indicated child protective history in New York City or is registered as a sex offender pursuant to Article 6-C of the New York Correction Law.

**§ 15.** *Section 11-07 of Chapter 11 of Title 68 of the Rules of the City of New York is amended by adding a new subdivision (k) to read as follows:*

(k) The host family may not include the spouse or domestic partner of any member of the household, or the parent or step-parent of any member of the household who is under twenty-one years of age. This restriction may be waived for good cause.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

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**CERTIFICATION / ANALYSIS**

**PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rental Assistance Program Rules**

**REFERENCE NUMBER: HRA-30**

**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/ Francisco X. Navarro

Mayor's Office of Operations

July 28, 2021

Date

**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:** Amendment of Rental Assistance Program Rules

**REFERENCE NUMBER:** 2021 RG 024

**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: July 27, 2021

Acting Corporation Counsel