

Resolution No.: 18-880
Introduced: July 25, 2017
Adopted: July 25, 2017

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: County Council

SUBJECT: Resolution to Extend Time for Council action on Executive Regulation 7-17, Requirements for the Housing Initiative Program, (Department of Health and Human Services)

Background

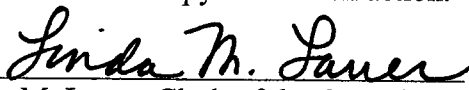
1. On July 13, 2013, the County Council received Executive Regulation 7-17, *Requirements for the Housing Initiative Program*, (Department of Health and Human Services).
2. The Council must review the regulation under Method (2) of Section 2A-15 of the County Code.
3. Under Method (2), if the Council does not approve or disapprove a regulation with 60 calendar days after the Council receives the regulation, the regulation automatically takes effect.
4. Code Section 2A-15 allows the Council to extend the deadline for action on a regulation under Method (2).

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The time for consideration of Executive Regulation 7-17, *Requirements for the Housing Initiative Program*, (Department of Health and Human Services), is extended to December 31, 2017.

This is a correct copy of Council action.


Linda M. Lauer, Clerk of the Council



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Subject Requirements for Housing Initiative Program	Number 7-17
Originating Department Department of Health and Human Services	Effective Date July 25, 2017

Montgomery County Regulation on:

REQUIREMENTS FOR THE HOUSING INITIATIVE PROGRAM

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Issued by: County Executive

Regulation No. 7-17

COMCOR No: 02.42A.07

Authority: Code Section 2-42A

Council Review: Method 2 under Code Section 2A-15

Register Vol. 34, Issue 5

Comment Deadline: May 31, 2017 Sunset Date: None

Effective Date:

SUMMARY: This regulation supersedes Executive Regulation 20-12 to establish the requirements for the Housing Initiative Program. This regulation revises definitions, clarifies program requirements, updates eligibility and conforms the regulation to match current departmental practice.

ADDRESS: Copies of this regulation may be obtained from the Department of Health and Human Services, Director's Office, Special Needs Housing, 401 Hungerford Drive, 5th floor, Rockville, MD 20850

STAFF CONTACT: Gloria Huggins, Department of Health and Human Services, Director's Office, Special Needs Housing, 240-777-4565

BACKGROUND: Chapter 2, Section 2-42A of the Montgomery County Code authorizes the Montgomery County Department of Health and Human Services to administer programs and provide human services. This regulation sets forth the standards for eligibility and procedures for the administration of the Housing Initiative Program.



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02.42A.07.01 Definitions

1.1 Definitions

Unless more specifically defined, the following words have the meanings stated:

- A. **Applicant** means a person who applies for the **Program**, but is not yet a **recipient of benefit payments**.
- B. **Adjusted monthly income** means the combined monthly **gross income** of all of the members of the **household**, less allowable deductions as defined in Section 1, 1.1. (M).
- C. **Asset** means all accumulated personal wealth, property or interest in property, over which a person has the authority or power to liquidate an interest.

1. An asset includes, but is not limited to:

- a. cash;
- b. time or demand deposits in a financial institution such as checking accounts, savings accounts, certificates of deposit, or money market funds;
- c. stock;
- d. bonds;
- e. shares in a mutual fund;
- f. trusts; or
- g. real estate.

2. An asset does not include:

- a. furniture and furnishings used in the rental unit;
- b. clothing; or
- c. one automobile for each member of the household who is a licensed driver.



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- D. **Benefit payment** means the monthly payment made by the **Department** to the landlord for a **recipient's contract rent**.
- E. **Co-occurring disability** means the simultaneous existence of chronic **substance abuse** and a **mental disorder**.
- F. **Continuum of Care** is a regional or local planning body that coordinates housing and services funding for homeless families and individuals.
- G. **Coordinated Entry System** is a client-centered process required by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 that streamlines access to housing interventions for each individual or family experiencing homelessness. Within a Coordinated Entry System persons are prioritized for housing based on vulnerability using a data-driven, real time process.
- H. **Contract rent** means the monthly rent agreed to by a written lease agreement between the **applicant household** and the landlord, regardless of any furnishings, fees, meals, or services.
- I. **Department** means the Montgomery County Department of Health and Human Services.
- J. **Director** means the Director of the Montgomery County Department of Health and Human Services or the Director's designee.
- K. **Developmental disability** means a severe chronic disability of an individual that:
1. Is attributable to a physical or mental impairment, other than the sole diagnosis of mental illness, or attributable to a combination of mental and physical impairments;
 2. Is likely to continue indefinitely;
 3. Is manifested in an individual before the age of 22;
 4. Results in an inability to live independently without external support or continuing and regular assistance; and
 5. Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are individually planned and coordinated for the individual.



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- L. **Elderly** means a person at least 62 years old.
- M. **Fair Market Rent** means the rent, including the cost of utilities (except telephone), as most recently published by the United States Department of Housing and Urban Development, for units of varying sizes (by number of bedrooms) that must be paid in the Washington Metropolitan Area housing market to rent privately owned, existing, decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.
- N. **Gross income** means total **household** income, taxable and nontaxable, from all sources, whether or not reported on a federal or state income tax return.
1. **Gross income** includes, but is not limited to:
- a. wages and tips received as compensation for employment or services rendered, before taxes and other deductions;
 - b. interest and dividends from all financial accounts;
 - c. benefits under the Social Security Act or the Railroad Retirement Act;
 - d. bequests and inheritances;
 - e. child or spousal support payments;
 - f. recurring monetary gifts and loans (excluding student loans) made to the household by other persons not living in the household to assist with rent or other living expenses;
 - g. strike benefits where there is no employee contribution;
 - h. Temporary Cash Assistance (TCA), Refugee Assistance, and Temporary Disability Assistance Program (TDAP) benefits;
 - i. pensions and annuity benefits, including veterans, railroad and mine worker benefits;
 - j. unemployment compensation benefits;
 - k. trust fund disbursements;
 - l. capital gains;



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- m. net profits from business and property rentals;
 - n. worker's compensation benefits;
 - o. stipends for educational or research fellowships for living expenses, excluding that portion that covers tuition and required fees;
 - p. foster care benefits; and
 - q. net income from self-employment.
2. **Gross income** does not include:
- a. losses from businesses, rental, or capital transactions;
 - b. third-party payments made by someone outside of the **household** for living expenses;
 - c. payments given directly to a service provider for which the **applicant** has no discretion over the use of the funds;
 - d. employment income of **household** members under 18 years old, unless emancipated;
 - e. employment income of full-time students 18 years of age or older, unless that person is the applicant, or the spouse of the applicant.
 - f. student financial assistance in the form of grants, loans or work study aid provided under the Higher Education Act, under a State program, or by an institution of higher education and including Pell Grants, Supplemental Educational Opportunity Grants, Federal Family Education Loans, Ford Direct Loans, Perkins Loans, State Student Incentive Grant, College Work Study, Civic and Fraternal Scholarships, Private Company Scholarships;
 - g. Medicare payments deducted from Social Security benefits; and
 - h. Nazi Restitution payments to victims of Nazi persecution.
3. A deduction from monthly household gross income may be granted by the Department when determining eligibility for the Program, if documentation is provided by the applicant that demonstrates the household makes regular out-of-pocket payments for any of the following:



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- a. child care expenses up to the Montgomery County average cost of child care, by type of care, as determined by the Montgomery County Working Parents Assistance Program;
 - b. medical expenses for doctor and dental fees, prescription drugs and prescribed medical procedures that are not reimbursed by insurance or other sources;
 - c. over-the-counter medical products, if ordered by a doctor to treat an ongoing medical condition; or
 - d. medical insurance premiums.
- O. **Homeless** means individuals and families who are defined consistent with the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 as individuals, adults and children who lack a fixed, regular, and adequate nighttime residence. This includes individuals and families who:
- 1. Are sleeping in a place not designed or ordinarily used as a regular sleeping accommodation including a car, park, abandoned building, bus or train station, airport, or camping ground;
 - 2. Live in emergency or transitional shelter (including congregate shelters, transitional housing, as well as hotels/motels and community placements paid for with public funds to prevent homelessness).
 - 3. Are exiting an institution where the person has resided for 90 days or less and was homeless prior to entering the institution.
- P. **Household** means a single individual or two or more persons, whether or not related, who live together in a rental unit.
- Q. **Housing Locator** means the person from the Department, or an agency contracted by the Department, who is designated to assist an applicant approved to receive program benefits with identifying and locating rental housing in Montgomery County.
- R. **Legal resident** means a person who is either a citizen of the United States or a person who is a non-citizen who has been granted eligible immigration status in the United States by the United States Citizenship and Immigration Services.
- S. **Mental disorder** means a behavioral or emotional illness that results from a psychiatric or



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neurological disorder. A **mental disorder** also includes a mental illness that substantially impairs the mental or emotional functioning of an individual and makes care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another. **Mental disorder** does not include a **developmental disability**.

- T. **Mixed household** means any household that includes persons who are legal residents and persons who are not legal residents.
- U. **Program** means the Housing Initiative Program.
- V. **Recipient** means a person who currently receives a **benefit payment**. An **applicant** becomes a **recipient** on the effective date of the first **benefit payment** to the landlord. A **recipient** includes a person who reapplies for **Program** eligibility before the end of a current eligibility period.
- W. **Relative** means a parent, step-parent, grandparent, child, step-child, sibling, father-in-law, mother-in-law, son-in-law, daughter-in-law or spouse.
- X. **Rental unit** means a unit in Montgomery County that is licensed in accordance with Chapter 29 of the Montgomery County Code.
 - 1. A **rental unit** cannot be occupied by more than one **household** and includes, but is not limited to:
 - a. a detached or attached single family home or town home;
 - b. an apartment in a multi-family facility;
 - c. a condominium or cooperative unit in a multi-family facility;
 - d. a rental mobile home in a licensed mobile home park; or a rented mobile home pad on which the **applicant** has placed a mobile home in a licensed mobile home park;
 - e. a room or group of rooms in an attached or detached single family home or town home, apartment condominium or cooperative;
 - f. a personal living quarters; or
 - g. an accessory apartment.



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2. A **rental unit** owned by a relative of any member of the **applicant household** is eligible only if the **Department** determines that approving the **rental unit** would provide reasonable accommodation for the **recipient** or for a **household** member.
- Y. **Service coordinator** means the person from the **Department**, or an agency contracted by the **Department**, designated to provide on-going outreach to a **recipient** to engage them in services and ensure residential stability.
- Z. **Service provider agency** means the Montgomery County public or private **agency** that refers an **applicant** to the **Program**.
- AA. **Special populations** means:
1. a person with a sensory, cognitive or mobility impairment;
 2. a person with a **developmental disability**;
 3. a person with a chronic mental disorder;
 4. a person with a **co-occurring disability**;
 5. a person with chronic **substance abuse**;
 6. a person who is **elderly** and in need of independent or supportive housing;
 7. a person who is **homeless**; or
 8. a youth transitioning from systems of public custodial care such as foster care and juvenile justice.
- BB. **Substance abuse** means a disease which is characterized by the pathological use of a drug or alcohol with repeated attempts to control the use, and with significant negative consequences in at least one of the following areas of life: medical, legal, financial, or psychosocial.
- CC. **Suitably sized unit** means the standard for the appropriate number of bedrooms needed for **households** of different sizes and compositions as most recently published by the Montgomery County Housing Opportunities Commission for the Housing Choice Voucher Program.
- DD. **Tenant rent responsibility** means the monthly amount owed by the **recipient household** to the



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landlord. The tenant rent will be equal to 30% of the **recipient household's gross adjusted monthly income**, less any monthly utility allowance.

02.42A.07.02 Eligibility

2.1 General Applicant Requirements

All of the following criteria must be met for an **applicant** to be eligible for the **Program**.

- A. **Applicant** must be referred to the **Department** through the **Coordinated Entry System** operated by the **Continuum of Care**.
- B. **Applicant** must be included in at least one of the **special populations** as defined in Section 1, 1.1 (Z) of this regulation.
- C. **Applicant** must be a **legal resident** of the United States.
- D. **Applicant** must be a resident of Montgomery County.
- E. **Applicant** must be at least 18 years old and must plan to reside at the eligible **rental unit** for which the **benefit payment** is being paid.
- F. **Applicant** or any **household** member must not have been previously excluded by the **Director** from participation in the **Program**.
- G. **Applicant** and all **household** members 18 years of age or older must agree to undergo a criminal background check and be screened through the National Sex Offender Registry.
- H. **Applicants** may be excluded from the **Program** if they or any member of the **household** has been convicted of criminal activity that would adversely affect the health, safety or wellbeing of other persons.

2.2 Income Requirement

The combined **gross adjusted monthly income** of all of the members of the **applicant household** on the date the application is approved must not exceed thirty (30) percent of the area median income for a **household** of comparable size as most recently published by the United States Department of Housing



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and Urban Development.

2.3 Rent Cost Limitation

The **contract rent** for the eligible **rental unit** occupied by the **household** must not exceed 120 percent of the average cost for a **suitably sized unit**. The average Montgomery County rental costs must be determined periodically by the **Department** as most recently published by the Montgomery County Department of Housing and Community Affairs.

2.4 Lease Requirements

- A. Each **household** must have a written rental lease agreement, executed by the landlord and the **household**, that complies with the provisions of Montgomery County Code, Chapter 29, Landlord-Tenant Relations. If the **household** is subletting a **rental unit**, then the primary lessee must have a written agreement with the property owner permitting the primary lessee to sublet. If a **recipient** remains in a rental property after the initial lease expires as a month-to-month tenant, the recipient must provide the **Department** with written verification signed by the landlord of the status of their rental agreement and the amount of the current monthly rent.
- B. Single persons residing together must have individual leases with the property owners or primary lessee in order to be considered as separate **households** for the purposes of determining **Program** eligibility. Otherwise, all persons must be considered as one **household** and must meet all eligibility criteria.

2.5 Service Agreement Requirements

- A. All **Program benefit payment recipients** must have a written service agreement signed by the **service coordinator** and the **recipient**. **Household** members who are 18 years of age or older may also be required to sign an individual service agreement, or be a party to the **recipient's** service agreement, as determined appropriate by the **service coordinator**.
- B. The service agreement must include, at a minimum:
 - 1. a detailed description of the tasks and responsibilities of the **recipient** and the **service coordinator** to maintain housing;
 - 2. requirements for **Program** participation, such as eligibility criteria, benefit payment limits,



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reapplication requirements, grievance procedures and termination policies;

3. requirement that **benefit payment recipients** must apply, when available, to receive Housing and Urban Development Housing Choice Voucher or Public Housing benefits and may not continue to receive **Program benefit payments** if approved to receive an equivalent rental assistance subsidy from another local, state or federal housing subsidy program. The **benefit recipient** may remain eligible to receive supportive services provided by the **service coordinator**.

2.6 Asset Limits

The value of the **assets** of all of the members of the **household** must not exceed \$10,000.

02.42A.07.03 Application, Priority, Reapplication and Moves

3.1 Application Procedure

- A. Applications will be accepted by the **Department** only when appropriated Program funds are available. The **Department** will establish the time period of application acceptance in accordance with funding availability and notify **service provider agencies** in writing of the application acceptance dates.
- B. In order to be considered for the **Program**, the referring **service provider agency**, together with the **applicant**, must submit an application on a form provided by the **Department**, which is signed by both the **applicant** and the **service provider agency**. Supporting documentation and information verifying **household** income and **assets** must be submitted with the application and the **applicant** must certify in writing on the application, or on an accompanying form, that all information reported on the application form is accurate and true.
- C. The **applicant**, and all members of the **household** 18 years of age or older, must sign a release of information form permitting the **Department** to perform a criminal background check and screening through the National Sex Offender Registry.
- D. The **applicant**, and the referring **service provider agency**, must submit any information determined by the **Department** as necessary to verify that all **Program** eligibility criteria have been met. At a minimum, the following documentation must be submitted for each **household** member as



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determined to be applicable by the Department:

1. A copy of the most recent Federal tax return, including a copy of all income and interest statements.
 2. Financial statements documenting assets and indicating interest or dividends earned and principal account balances.
 3. Documentation of wages, tips and other income for at least 30 days preceding the date of application.
 4. Any other information required by the Department to determine if all standards of eligibility have been met.
- E. The **applicant** must submit one of the following for each **household** member, as determined applicable by the Department, to prove eligible immigration status:
1. resident alien card;
 2. resident alien receipt card;
 3. arrival/departure record;
 4. temporary resident card;
 5. employment authorization card; or
 6. receipt issued by the United States Citizenship and Immigration Services for the replacement of documentation to provide eligible immigration status.

3.2 Application Review

Within 30 calendar days after receipt of the signed application and all documentation requested by the Department, the Department must approve or deny each application and send written notification to the applicant and the referring service provider agency of the application status.

3.3 Applicant Priority

- A. Each applicant will be prioritized for housing by the **Coordinated Entry System** and referred to the



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Housing Initiative Program as openings occur in the program.

B. **Applicants** who have applied for or who are on a federal, state or other local housing program waiting list, may not be:

1. refused placement; or
2. given a lower priority than they are otherwise qualified to receive.

3.4 Approval

A. The **Department** will notify the **applicant** and the referring service provider agency in writing when the **applicant** is approved to receive program benefits. The Department will assign a **Housing Locator** and **Service Coordinator** who will work with the **applicant** to identify an appropriate rental unit and assist the applicant through the leasing process. The **service coordinator** will engage the **applicant** in services as appropriate and execute a written service agreement as outlined in Section 2.5 of this regulation.

B. The applicant's approval for program benefits will be rescinded if the applicant fails to identify an appropriate housing option within 120 calendar days of program acceptance. Prior to rescinding benefits, the program will assess the barriers contributing to inability to identify housing and may grant the applicant an extension not to exceed 60 days prior to terminating benefits.

C. When a **rental unit** is found, the housing locator or service coordinator, together with the **applicant**, must submit a request for approval of the **rental unit** to the **Department**. The **Department** will review the **rental unit** request to ensure that the **rental unit**:

1. conforms to the definition of a **rental unit** as defined in Section 1.1, W. of this regulation;
2. meets the **suitably sized unit** standard for the appropriate number of bedrooms needed for the household size;
3. conforms to the rent cost limitation as outlined in Section 2.3 of this regulation; and
4. conforms to the lease requirements as outlined in Section 2.4 of this regulation.

D. Upon approval of the **rental unit** by the **Department**, a copy of the executed lease agreement must be submitted to the **Department**. The **Department** will determine the amount of the **benefit**



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payment in accordance with Section 4 of these regulations.

- E. The household may lease an eligible rental unit with fewer bedrooms than the suitably sized unit standard for their household size; however the eligible rental unit must meet all other applicable space requirements.
- F. The household may not lease an eligible rental unit with more bedrooms than the household size standard.
- G. An approved applicant must occupy the approved rental unit as of the date that the benefit payment will commence.
- H. An applicant's benefit payment approval period will be for a maximum of 24 consecutive months. Benefit payments may be renewed by the Department upon reapplication by the recipient before the end of each benefit payment eligibility period.
- I. Benefit payment recipients must apply, when available, to receive Housing and Urban Development Housing Choice Voucher or Public Housing benefits. Recipients of Program benefit payments may not continue to receive Program benefit payments if approved to receive an equivalent rental assistance subsidy from another local, state or federal housing subsidy program. The recipient may remain eligible for service coordination services provided by the Program.

3.5 Moves

- A. If a recipient intends to move from their approved rental unit, the recipient, together with the service coordinator, must submit a written request to the Department for approval of the new rental unit at least 30 days prior to the requested move date. If the move is voluntary, the written request must be submitted at least 30 days prior to the date the recipient is required to provide notice of intent to vacate in accordance with the lease terms.
- B. The Department will review the request to determine if the new rental unit conforms to the standards as outlined in Section 3.4.
- C. If the recipient move is voluntary, the Department will not be responsible for payment of any costs resulting from the recipient's move, including but not limited to penalties for early lease termination, moving costs, damages, or security deposits for the new rental unit.



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3.6 Reapplication

- A. The **service coordinator**, together with the **recipient**, must reapply for **benefit payments** before the expiration of the **recipient's benefit payment** eligibility period in accordance with deadlines and procedures established by the **Department**.
- B. A **recipient** may not continue to receive **benefit payments** after the expiration of a **benefit payment** period unless the **service coordinator**, together with the **recipient**, reapplies for **benefit payments** during the eligibility period and the **recipient household** continues to meet the eligibility criteria then in effect.
- C. A **recipient's service coordinator** must report to the **Department** within 30 days when any one of the following occurs;
 - 1. number of **household** members increases or decreases;
 - 2. amount of **contract rent** increases or decreases; or
 - 3. household gross income changes by 10 percent or more.
- D. A **recipient's service coordinator** must report to the **Department** immediately when any one of the following occurs:
 - 1. **rental unit** lease is terminated;
 - 2. **household** moves from the **rental unit**;
 - 3. **recipient** receives a notice of eviction; or
 - 4. **recipient** is away from the **rental unit** for more than 60 consecutive calendar days.

3.7 Application Denial

- A. Applications must be denied based on a determination by the **Department** that the **applicant** does not meet one or more eligibility criteria as outlined in this regulation or has failed to provide adequate information or documentation with respect to one or more eligibility criteria.
- B. An **applicant** who is denied **benefit payments** and the referring **service provider agency** must be notified in writing by the **Department** of the denial and the reason for the denial within 30 calendar



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days after receipt of the signed application and all documentation requested by the **Department**.

C. The written notice of denial must include:

1. the decision, the reasons for the decision, and regulations supporting the decision;
2. the right to request an informal case review;
3. the method by which a case review may be requested;
4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
5. the right to appeal an unfavorable decision of a case review by requesting an administrative review hearing;
6. the right, upon request, to have an interpreter present in a case review and in an administrative review hearing; and
7. the waiver of the right to an administrative review hearing if a case review is not timely requested.

3.8 **Applicant Case Review**

- A. An **applicant** has 30 calendar days from the date of the **Department's** notice of denial to request a case review. The **applicant** may make the request to the **Department** in writing, in person, or by electronic mail or fax simile.
- B. A case review will consist of a review by the **Program** administrator of the oral and documentary information pertinent to the application and any information provided by the **applicant** relating to the denial of the application.
- C. Within 15 calendar days of the case review, the **Department** must send the **applicant** and the **service provider agency** a notice of the decision from the case review. The notice must state the basis for the decision. If the decision is adverse to the **applicant**, the notice must state that the **applicant** has the right to appeal the decision by requesting an administrative review hearing. The **Department** must include a copy of the form for appealing the decision with the notice.
- D. The **Department** must, upon request, assist an **applicant** with requesting a case review or an administrative review hearing and provide an interpreter to assist an **applicant** with requesting a



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case review or an administrative review hearing.

02.42A.07.04 Benefit Payment

4.1 Tenant Rent

- A. The **recipient** will be responsible for paying the landlord an amount determined by the **Department** that is equal to 30% of the **household gross adjusted monthly income**.
- B. If the **recipient** is responsible for payment of utilities separate from rent, a utility allowance will be deducted from the **tenant rent responsibility**. The amount of the utility allowance will be based on the same standard used to determine utility allowances for the Housing Choice Voucher Program as most recently published by the United States Department of Housing and Urban Development.
- C. If the utility allowance deduction is greater than the total **tenant rent responsibility**, the negative balance will be paid by the **Department** to the **recipient** to assist with the payment of monthly utility costs.

4.2 Benefit Payment Calculation

- A. The **benefit payment** to the landlord by the **Department** will be the difference between the **contract rent** and the **tenant rent responsibility**.
- B. **Mixed Households** will receive a prorated **benefit payment** reduced by the percentage of **household** members who are not **legal residents**.

4.3 Benefit Payment Limits

- A. Only one **household** per eligible **rental unit** may receive **benefit payments**.
- B. A **recipient**, or any **household** member, cannot receive any federal, state or local housing program subsidy in addition to a **Program benefit payment**.

4.4 Benefit Payment

- A. **Benefit payments** may only be paid to the landlord on behalf of a **recipient** during the lease term.
- B. The first **benefit payment** will be made in the month the lease term date begins and will be prorated for the first month from the date the lease term commences until the end of that month.



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Benefit payments will be paid monthly thereafter through the end of the month that the **recipient household** moves out of the **rental unit** or until such time as the **Department** determines the **recipient** is no longer eligible for **benefit payments**.

- C. If the landlord has commenced the process to evict the **recipient household**, and if the **recipient household** continues to reside in the **rental unit**, the **Department** will continue to make **benefit payments** to the landlord until the **rental unit** is vacant or the **Department** determines that the **recipient** is no longer eligible for **benefit payments**.
- D. When a **recipient household** moves out of the **rental unit**, or the **recipient household's benefit payment** is terminated, the **Department** will not make a **benefit payment** to the landlord after the month the **household** moves out. The landlord may retain the **benefit payment** for the month the **household** moves out of the **rental unit** regardless of the date of the month the **household** vacates the **rental unit**.
- E. If a **recipient household's service provider agency** is the leaseholder of the unit in which the **recipient household** resides and the **service provider agency** remains liable for rent costs until the end of the **recipient household's** lease term, the County will reimburse the **service provider agency** for rent cost for that **recipient household** for the month after the **recipient household** moves out of the **rental unit** or the month after the **recipient household's benefit payment** is terminated.
- F. If a **recipient household** voluntarily moves from a rental unit before the expiration of the **recipient household's** lease term, the County will not reimburse the landlord for any costs to the landlord that result from early termination of the lease except when the landlord is the **recipient household's service provider agency** as outlined in Section 4.1, E.

4.5 Payment Upon Institutionalization or Upon Death

- A. If a **recipient** dies or becomes institutionalized, and is a member of a **household** with additional persons over 18 years old, **benefit payments** may be paid by the Department on behalf of the adult **household** member until the expiration of the current eligibility period, or as long as all of the remaining **household** members continue to reside in the unit, whichever comes first.
- B. If a **recipient** is a one person **household** and becomes institutionalized for more than 90 consecutive days, the **Department** will terminate **benefit payments**. Upon discharge, the **recipient** may regain eligibility pursuant to meeting eligibility criteria outlined in Section 2.1 and the availability of resources.



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4.6 Availability of **Benefit Payments**

Benefit payments are subject to the availability of **Program** funds appropriated and any limitations set by the County Executive on the number of **Program** recipients.

02.42A.07.05 Discontinuation of **Benefit Payments** and **Program** Participation Termination

5.1 The **Department** may discontinue **benefit payments** or terminate the **recipient** from participation in the **Program** under the following circumstances.

- A. The **Department** may immediately discontinue **benefit payments** when any one of the following occurs:
 - 1. **recipient** notifies the **Department** that assistance is no longer required; or
 - 2. **Department** is notified that **recipient** is no longer residing in the eligible **rental unit**, except when the **recipient** is temporarily absent from the **rental unit** because of institutionalization.
- B. The **Department** may discontinue **benefit payments** and terminate the **recipient** from **Program** participation when any one of the following occurs;
 - 1. **household** no longer meets eligibility requirements;
 - 2. **recipient** or any **household** member fails to provide information required to determine continued eligibility recertification;
 - 3. **recipient** fails to reapply for **Program** **benefit payments** before the end of their current eligibility period;
 - 4. **recipient household** is evicted from the **rental unit**;
 - 5. lease is terminated by the landlord or the **recipient household**; or
 - 6. **recipient** or any member of the **household** violates the terms of their service agreement.
 - 7. households recertifying their eligibility will not be terminated for exceeding the income limitations as outlined in Section 2.2 until the total household income exceeds 50% of area median income for a **household** of comparable size as most recently published by the United



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C. The Department may discontinue **benefit payments**, terminate the **recipient** from the **Program**, and exclude the **recipient** from future **Program** participation for any one of the following reasons:

1. **recipient**, or any **household** member, has improperly obtained **benefit payments** or improperly used **benefit payments**;
2. **recipient**, or any **household** member, is convicted of criminal activity that would adversely affect the health, safety or wellbeing of other persons.

D. If the recipient or any household member is the victim of domestic violence, dating violence or stalking, the Department may not discontinue benefit payments or terminate **Program** participation because of the violence committed against them.

5.2 A **recipient** who receives an adverse decision under any provision in this section may seek a review of the adverse decision in accordance with the procedures specified in this regulation.

02.42A.07.06 Waiver Authority

6.1 Waivers

The **Director** may waive any **Program** requirement upon a finding of good cause.

6.2 Waiver Procedures

All waivers must be requested in writing and must clearly state the requirement for which the waiver is being requested. Upon a finding of good cause, the **Director** may grant a waiver, which must be in writing, and must clearly state the reason the requirement is being waived.

02.42A.07.07 Penalties

7.1 Falsification of Information

Any person who knowingly makes or helps another person to make a false or misleading statement in order to obtain **benefit payments**:



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- A. upon conviction shall be guilty of a Class A violation;
- B. may be required to repay the County any **Program benefit payment** improperly paid in reliance on the false or misleading statement; and
- C. may be required to pay the County interest on the total amount improperly paid at the rate of one percent per month on the outstanding balance owed until the total **benefit payments** improperly paid is repaid.

02.42A.07.08 Right of **Recipient** to In-Person Case Review

8.1 Notice to **Recipient** of Adverse Action

- A. The **Department** must notify a **recipient** in writing of an adverse action and provide a copy to the **service coordinator**. An adverse action includes a denial of a reapplication for **Program benefit payments**, a decision that the **recipient** failed to provide documentation requested in a reapplication, a decision to suspend, discontinue, reduce, or terminate assistance, a decision to seek to recover an overpayment or over issuance of **benefit payments**, or a decision that the **Program** intends to take any adverse action listed in this regulation.
- B. The notice of adverse action must include:
 - 1. the decision, reasons for the decision, and regulations supporting the decision;
 - 2. the right to request an in-person case review;
 - 3. the method by which an in-person case review may be requested;
 - 4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
 - 5. the right to appeal an unfavorable decision of an in-person case review by requesting an administrative review hearing;
 - 6. the right, upon request, to have an interpreter present in any in-person case review or administrative review hearing; and
 - 7. the waiver of the right to an administrative review hearing if a case review is not timely



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requested.

8.2. In-Person Case Reviews

- A. A **recipient** has 30 calendar days from the date of the **Department's** notice of adverse action to request an in-person case review. Such request must be made in writing or in person to the **Program** administrator. The **Department** must, upon request, assist a **recipient** with requesting an in-person case review and provide an interpreter to assist the **recipient** with requesting an in-person case review, and attend the in-person case review.
- B. An in-person case review consists of an informal in-person meeting of the **recipient** with the **Program** administrator. The **Program** administrator must review the oral and documentary information pertinent to the application, and must explain the basis for the proposed adverse action. The **recipient** must be provided the opportunity to present his or her reasons and explanation for why the adverse action is not warranted.
- C. Within 15 calendar days of the in-person case review, the **Program** administrator must send the **recipient** a notice of the decision from the in-person case review. The notice must state the basis for the decision. If the decision is adverse to the **recipient**, the notice must state that the **recipient** has the right to appeal the decision by requesting an administrative review hearing. The **Program** administrator must include a copy of the form for appealing the decision with the notice.

02.42A.07.09 Administrative Review Hearing

9.1 Appeals by Applicants and Recipients

- A. An **applicant**, or **recipient**, who requested a case review in a timely manner, may appeal an adverse case review decision by filing a written request for an administrative review hearing with the **Department** within 30 calendar days of the date of the notice of the adverse case review decision. Such request must be on a form provided by the **Department** with the notice of the adverse case review decision.
- B. The **Department** must, upon request, assist an **applicant** or a **recipient** with requesting an administrative review hearing or provide an interpreter to assist the **applicant** or **recipient** with requesting an administrative review hearing, and attend the administrative review hearing.



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9.2 Conduct of the Administrative Review Hearing

The **Director** will conduct the administrative review hearing. During the administrative review hearing, the **Director** must review the decision of the **Program** administrator, the relevant **Program** file, and the record of the case review. The **Director** must also hear and consider materials presented and arguments made by the appellant as to why the decision of the **Program** administrator is in error and should be reversed. The **Director** must conduct the hearing in a fair, even-handed manner, giving the appellant an adequate opportunity to fully present the appellant's case, with due regard for the appellant's education, experience and communication skills.

02.42A.07.10 Implementation of an Adverse Action Against Recipients

10.1 Except as provided in Section 5, 5.1, A of this regulation, no adverse action must be taken against a **recipient** until the expiration of the following periods, to the extent applicable:

- A. the period for requesting an in-person case review;
- B. the appeal period following an adverse decision in an in-person case review; or
- C. issuance of the decision in an administrative review hearing.

10.2 Except as provided in Section 7 of this regulation, a **recipient** will incur no repayment liability until, as applicable, the later of the date of:

- A. the notice of the decision in the in-person case review; or
- B. the decision in the administrative review hearing.

02.42A.07.11 Legal Challenge

11.1 If an **applicant** or **recipient** is aggrieved by a final decision of the **Department** in an administrative review hearing, that **applicant**, or **recipient**, may file an original complaint in the Circuit Court for Montgomery County, Maryland.



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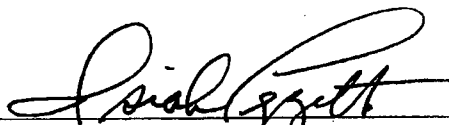
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Department of Health and Human Services

Effective Date

02.42A.07.12 Effective Date

12.1 This regulation takes effect immediately upon the adoption of a resolution of approval by the County Council.

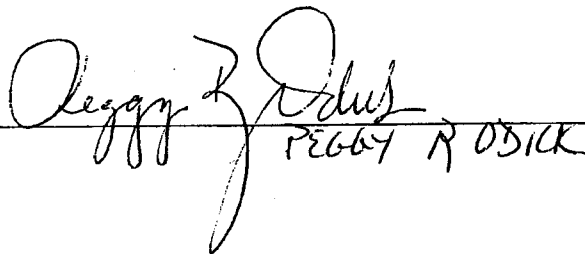

Isiah Leggett, County Executive


Date

Approved as to Form and Legality

Office of the County Attorney

By:


PEGGY R OSICK

Date:

6/27/17