



**Massachusetts Department of Housing and Community Development
Division of Housing Stabilization**

To: DHCD Field Staff
From: Rose Evans, Associate Director 
Date: September 13, 2013
RE: Housing Stabilization Notice 2013-02, HomeBASE Transition to Emergency Assistance

Introduction

This Housing Stabilization Notice (HSN) is intended to clarify how families in the time-limited HomeBASE Rental Assistance (HBRA) program who have reached the end of their 24-month subsidy are to be considered if they re-apply for Emergency Assistance (EA). In summary:

- HBRA participants who are in good standing at the end of their 24-month HB leases (or shorter rental period if they choose to convert from HBRA to HB Household Assistance (HA) before the end of the 24-month term) will:
 - * receive a waiver allowing them to access EA without waiting for eviction (details provided below under **Discussion: HomeBASE Rental Assistance participants in good standing at end of their 24-month benefit**, p. 3);
 - * receive a waiver allowing their EA applications to be processed through an expedited electronic application process without going to the local Transitional Assistance Office (TAO) for 30 calendar days from the last day of their HBRA benefit (details provided below under **Discussion: HomeBASE Rental Assistance participants in good standing at end of their 24-month benefit**, pp. 3); and
 - * receive a waiver allowing them to access EA for up to 12 months after the end of their HBRA benefit, regardless of their housing situation during the interim, so long as they otherwise qualify for EA, they have not obtained subsidized housing, they are not facing homelessness again for a disqualifying reason (see 760 CMR 67.06 (2)), and they have not been terminated from or are not pending termination from HomeBASE (details provided below under **Discussion: HomeBASE Rental Assistance participants in good standing at end of their 24-month benefit**, p. 4).
- HBRA participants who have been terminated for cause prior to the end of their 24-month HBRA terms or who are facing termination for cause determined to be justifiable at the end of their 24-month HB benefit will not be eligible for EA.

This HSN should be treated as containing the three universal waivers summarized above. Former Moving to Economic Opportunity (MEOP) participants will also receive similar waivers.

Discussion

The HBRA program was started as an initiative to provide a housing alternative to EA shelter. Families who qualified for EA were eligible for a short-term rental subsidy augmented by stabilization services to help families transition into stable housing. Some families were able

to make the transition to stable housing within, or at the end of, their 24-month rental subsidy, but some were not. This HSN discusses how current HBRA participants close to the end of their 24-month HBRA terms and former HBRA participants may qualify for EA benefits if they are not able to transition to stable housing through the HBRA program.

HBRA participants who transition onto HB Household Assistance (HBHA) will receive stabilization services for twelve (12) months beginning on the first date for which they receive a HBHA payment. When a former HBRA recipient applies to EA, whether that recipient transitioned to HBHA or not, that application will be taken through a direct, expedited application process initiated by the HB Administering Agency (HBAA) or subcontractor, provided that the application is received within 30 calendar days from the last date of their HBRA benefit. The standard EA application process requiring application at the TAO and screening by a Division of Housing Stabilization (DHS) Homeless Coordinator (HC) should not be utilized for former HBRA recipients receiving stabilization services from HBHA. Former HBRA recipients who do appear at a TAO within 30 calendar days from the last date of their HBRA benefit to apply for EA should be referred by the DHCD HC to their HBAA. The receipt of HBRA should be indicated in ASIST entries by the HBRA flag and in the housing history taken at the time of application.

When a HC screens a former HBRA participant who is applying for EA, the HC should check the ASIST entries for the HBRA flag. If present, and the applicant is within 30 calendar days from the last day that his or her HBRA benefit ended, he or she should be referred back to the HBAA.

It is possible that there may not be ASIST entries identifying an EA applicant as a former HBRA participant. For example, the name may be very common and spelled slightly differently, or the former HBRA participant may have exited the HB program before the implementation of ASIST. Additional questions should be asked of the EA applicant to determine whether an applicant is likely to have been a former HBRA participant. Appropriate questions may include, but not be limited to, the following examples:

- * Have you ever been homeless before?
- * When you exited shelter, did you receive any type of financial assistance and from whom?
- * If you were terminated from a HomeBASE unit, can you provide a copy of your termination notice or provide contact information for your provider so that we can follow up?

In addition, DHS maintains a list on SharePoint prepared by the DHCD Bureau of Rental Assistance (BRA) of former HB families that have been terminated from HB. The list contains the assigned HBAA, the type of HB assistance (RA or HA), the last date of HB assistance, whether the family was terminated for cause, the reason for termination for cause, and the status of any administrative appeal of termination. The SharePoint list should be consulted whenever it appears likely that an EA applicant may have received HBRA benefits within 24 months before the application. There are numerous government and private nonprofit rental subsidy programs and participants may not be clear about which program they were participating in. For example, some EA applicants may be former EA Flex Funds participants, as (due to court intervention) the last Flex Fund rental subsidy did not end until March 2013. Through March 2014, former Flex Funds participants who left Flex Funds without converting to HBRA should be screened as

outlined in HSN 2011-01, EA Eligibility of Former Flex Funds Recipients, and HSN 2012-02, Emergency Assistance Applicants Previously Granted Flex Funds Whose Benefits are Terminated.

Former HBRA recipients should fall within one of the categories outlined below:

HomeBASE Rental Assistance participants in good standing at end of their 24-month benefit

Any HB participant at the end of the 24-month HB benefit who has not been terminated from HB for cause and is not facing termination from the HB program for cause, as defined in 760 CMR 65.05 (1), will be considered to be in good standing and to have met the requirement to make a good faith effort to follow its housing stabilization plan.

Pursuant to a universal waiver of the standard EA application process as outlined in HSN 2012-12, Clarification of Procedures Involving Re-Application and Open Applications, and HSN 2012-09A, Guidance on Meaning of Fault in Fires, Floods, Natural Disasters, and No Fault Evictions, HBRA participants in good standing who have no feasible alternative housing will be eligible for EA (assuming that they are otherwise eligible) ten business days before their final lease date, as they will be considered to be facing eviction through no fault of their own due to the landlord's notice of intent not to renew the lease. At any time after lease end date, if the family remains in their HB unit until applying for EA or if they leave the HB unit and become homeless again after that time without obtaining intervening housing in a subsidized housing unit (for the meaning of subsidized housing, see HSN 2012-11, Guidance on Whether to Consider LIHTC Units as Subsidized), they will be considered to fall within the no-fault eviction category of EA eligibility pursuant to a universal waiver of the standard EA practice requiring tenants to be within 48 hours of physical eviction before they are considered EA-eligible. See HSN 2012-12, Clarification of Procedures Involving Re-Application and Open Applications. This universal waiver is granted in light of the fact that HBRA participants needed to qualify as EA-eligible homeless families before receiving HB, and that benefit is no longer available to prevent them from returning to homelessness. While HBRA participants are encouraged to work, if in conjunction with their stabilization case manager, landlords/other landlords or potential roommates they are unable to obtain less costly permanent housing or other alternative feasible housing, EA remains a safety net. Those HBRA participants who have not been able to make agreements to stay in place or to find an alternative housing arrangement may begin the EA application process one month before their final lease date: See HSN 2012-12, Clarification of Procedures Involving Re-Application and Open Applications. That application will be taken through a direct, expedited application process initiated by the HB Administering Agency (HBAA) or subcontractor, for 30 calendar days from the end of their HBRA assistance or for 12 months from the end of their HBRA assistance if they are receiving stabilization services through HBHA, through a universal waiver of the standard application process under HSN 2012-12, Clarification of Procedures Involving Re-Application and Open Applications, which would otherwise be through a DHS homeless coordinator at the TAO. Families entering EA at the end of their HBRA benefit will be encouraged to leave their former HBRA units at the end of the HBRA lease rather than requiring their landlords to go through the eviction process. Nevertheless, if a landlord chooses to evict a HBRA participant who was in good standing at the end of his or her HB lease for holding over after expiration of the HB lease or for nonpayment of rent after the end of the HB lease term, that former HBRA participant will still be eligible for EA under the no-fault eviction category pursuant to the universal waiver.

Former HBRA families who have created new tenancies in their former HBRA units (either through a non-HB lease or a month-to-month tenancy at will) or who left their former HB units are subject to a universal waiver that deems any form of housing received during the twelve (12)-month period after their RA assistance ended, not to be safe, permanent housing (760 CMR 67.06 (4) (b) 2. a.) or other intervening housing (see HSN 2012-05, *Guidance on Eligibility Issues Relating to Housing before Homelessness*). This universal waiver does not apply: (a) in the case of safe, permanent housing that is subsidized (see HSN 2012-11, *Guidance on Whether to Consider LIHTC Units as Subsidized*) or (b) in the case when housing obtained after the end of the HBRA rent subsidy period is lost through one of the disqualifying reasons listed in 760 CMR 67.06 (2).¹ See HSN 2012-05, *Guidance on Eligibility Issues Relating to Housing before Homelessness* to determine the true reason for eviction in such circumstances.

Former HBRA recipients (1) who enter EA directly from their former HB units pursuant to the universal waiver of the requirement to be within 48 hours of physical eviction, (2) who have left their HB units, but apply within thirty (30) days of the end of their HBRA lease, or (3) who have stayed in their HB units after expiration of their HBRA lease for less than thirty (30) days, or (4) who are receiving stabilization services through HBHA must apply through the direct, expedited application process through their HBAAAs. Such families must not be subject to exceptions (a) and (b) above and they must qualify for EA as would any other applicant. For example, they will not be eligible if they have feasible alternative housing as defined in 760 CMR 67.06 (1) (b).

Former HBRA families who apply for EA more than thirty (30) days after the expiration of their HB leases should apply for EA at the local TAO. Such families may still be screened pursuant to the universal waiver of the requirement to be within 48 hours of physical eviction and the universal waiver disregarding intervening housing. Similarly, former HBRA recipients who were terminated from HBRA, are pending termination from HBRA, or who do not qualify for the universal waiver because of exceptions (a) or (b) above, should apply through the standard EA application process with the HC at the TAO.

All former HBRA families should have a clear indication in their case files and their ASIST entries flagging them as former HBRA recipients. Such families are eligible for HBHA as a diversion strategy at EA entry for twelve (12) months from the end of their HBRA tenancies. Similarly, they remain eligible for HBHA an exit strategy from EA, unless they utilized HBHA as a means of stabilization after the end of their HBRA assistance. If they did use HBHA as a means of stabilization after the end of their HBRA assistance, they are ineligible for HBHA for 12 months from the last date on which a HB cash benefit was paid for on their behalf. HBRA and stabilization are not considered HB cash benefits.

HomeBASE Rental Assistance participants who have received termination notices

Any HBRA participant who has been terminated for cause, who is pending termination at the end of his or her HBRA lease term, or who has been terminated from or is facing termination from post-HBRA HBHA or HB stabilization services leaves the program not in good standing.

¹ The reasons for homelessness that are disqualifying under 760 CMR 67.06 (2) are: making oneself homeless to obtain EA, making oneself homeless to obtain a benefit, abandoning public or subsidized housing, being evicted for nonpayment of rent or fraud in public or subsidized housing, being evicted for criminal conduct, being evicted for destruction of property, failure to cooperate with housing assistance services, termination from three teen living programs, and refusal to accept a placement in a teen living program.

Such participants are not eligible for EA for 24 months from the date of their last HB benefit if the termination (and any administrative appeals) are complete. For example, if HBRA was paid to the landlord through May 31, 2013, after a participant has been terminated from HBRA for cause, that family will not be eligible for HB again until June 1, 2015, because the benefit covered the entire month of May, 2013.

If the administrative appeal of an HBRA termination, including stabilization services, is pending at the time that the rental subsidy expires, the 24-month bar on EA eligibility will apply from the last date of subsidy, not the date that the administrative appeal process is completed. HBAAAs that are in the process of terminating an HBRA family for cause at the time that their HBRA 24-month benefit expires should discontinue the benefit, but continue the termination proceeding. There is no HBRA aid pending after the expiration of the 24-month rental subsidy. Ordinarily, because the summary process eviction procedure takes several months, the HB termination administrative appeal will have been disposed of before physical eviction. However, in some cases the HBRA participant will leave voluntarily before the summary process eviction procedure is complete, or perhaps the summary process eviction procedure may be completed before the HB appeal is decided.

Families appealing a termination from post-HBRA stabilization services may continue to receive such services during the appeals period, unless the twelve (12)-month stabilization period is completed before the appeal is completed. In that case, stabilization services should terminate at the end of the twelve (12)-month stabilization period. Nevertheless, the appeal of the termination should continue because of the effect of termination for cause from HB stabilization services on future EA eligibility.

If a former HBRA participant voluntarily chooses to leave his/her former HBRA unit, or other housing obtained subsequently, after the service of the notice to quit during the eviction process, the participant will be treated on the EA application as evicted for cause. *See HSN 2012-05, Guidance on Eligibility Issues Relating to Housing before Homelessness.* Such families will be considered to fall under exception (b) to the universal waiver disregarding intervening housing.

After the receipt of a HB notice of termination for cause, the HB participant may receive a notice to quit from the landlord for holding over after expiration of the HB lease or for nonpayment of rent attributable to the loss of the subsidy. If, after the service of the landlord's notice to quit in this case, the HB participant leaves the unit voluntarily, signs an agreement for judgment with the landlord with a date certain set to vacate, or is physically evicted, the eviction will be treated as an eviction for cause for the reasons stated in the HBRA termination notice, as the holding over or nonpayment in those cases are a direct consequence of the loss of the HBRA subsidy. *See HSN 2012-05, Guidance on Eligibility Issues Relating to Housing before Homelessness.* This is how all evictions from subsidized housing caused by loss of subsidy for violation of program rules are considered in the EA application process.

If the HB termination has been completed through the DHCD HB hearing review stage, the decision of the HB Hearing Review Officer will be considered binding by DHS. If the HBRA or HBHA stabilization services termination process has not been completed through the documentation review stage by the DHCD HB Hearing Review Officer when the family becomes homeless due to leaving the HB unit (or other housing obtained during the twelve (12)-month stabilization period) voluntarily or by physical eviction, the HC reviewing the application,

after consultation with the DHCD Legal Office, will have to make an independent review of the facts underlying the HB termination. In this context, the termination notice should be considered evidence of the validity of the termination and the termination notice will establish a presumption that the grounds for the termination are valid. *See* HSN 2012-05, *Guidance on Eligibility Issues Relating to Housing before Homelessness*, for similar treatment of the notice to quit and summary process summons and complaint. The HC (in consultation with the DHCD Legal Office) should, nevertheless, review all the evidence presented by the HB participant/EA applicant and by the HBAA in determining independently whether there is sufficient evidence for the HB participant to be terminated from HB. If the HC, after consultation with the DHCD Legal Office, determines that the HB termination is valid, then the HB participant/EA applicant should be denied on the basis that HB participants who do not make a good faith effort to follow their stabilization plans are not eligible for EA for 24 months from their last receipt of HB benefits. 760 CMR 65.03 (4). The HBAA and DHCD HB Hearing Review Office should continue the termination process to its completion even though the DHS HC's independent review has confirmed that the HB termination was valid.

If, on the other hand, the HC, after consultation with the DHCD Legal Office, determines based on his/her independent review that the HB participant/EA applicant did not engage in conduct warranting HB termination, the HC should grant the EA applicant presumptive placement. The presumptive placement will last until the HB administrative appeals procedure is completed through the issuance of an opinion by the HB Hearings Review Coordinator, even if the presumptive period lasts longer than the standard 30 days. If, at the end of the HB termination administrative review process by the HBAA hearing officer and DHCD HB Hearing Review Officer (if the appeal is taken that far), the HB participant's termination is determined to have been invalid, the HB participant/EA applicant will be granted plenary or full admission to the EA program if he or she is otherwise eligible. If, at the end of the HB termination administrative review process by the HBAA hearing officer and DHCD HB Hearing Review Officer (if the appeal is taken that far), the HB participant's termination is determined to have been valid, the HC should issue a denial after presumptive placement on Form NFL-9-AD.

HomeBASE participant converts remainder of HomeBASE Rental Assistance to HomeBASE Household Assistance and/or accesses up to \$4,000 in additional HB Household Assistance at the end of their Rental Assistance Benefit

HBRA participants may choose to convert the remainder of their HBRA benefits to HBHA, a flexible grant of up to \$4000 that can be used for numerous purposes, including first month's rent, last month's rent, security deposit, furniture, and moving expenses at a more affordable market rate unit, possibly with family or a roommate. Either at the time of conversion, or at the end of their 24-month HBRA benefit or at any time within twelve (12) months from the end of their HBRA leases, HBRA families are eligible for up to an additional \$4,000 Household Assistance benefit. Such families will receive HB stabilization services for twelve (12) months from the first date for which they received an HBHA cash assistance payment, unless terminated earlier pursuant to 760 CMR 65.05 (1). These families will be subject to the universal waivers detailed in this HSN for up to twelve (12) months from the last date for which they received an HBRA rental subsidy. Nevertheless, such families should have a clear indication in their case files and their ASIST entries flagging them as former HBRA recipients. Such families are not eligible for HBHA as a diversion strategy at EA entry or as an exit strategy from EA for 12 months from the last date on which they received HBHA cash assistance.

HomeBASE participants who refuse feasible alternative housing

Towards the end of their HB leases, HBRA participants should be actively working with their HB stabilization workers to identify alternative housing arrangements if they are unable to remain in place. The HB stabilization worker should note in ASIST if feasible alternative housing, as defined in 760 CMR 67.06 (1) (b), for the family has been located and refused by HBRA recipient. If the recipient has refused feasible alternative housing, he or she should not be forwarded to the DHCD Placement Unit under the direct, expedited EA application process. The HBAA stabilization worker should direct the recipient to the DHCD field office. If the HC has sufficient evidence from the HBAA and other facts gathered during the application process to determine that the former HBRA participant is more likely than not to have feasible alternative housing at a specific address, that family should be denied EA for feasible alternative housing and should not get presumptive EA eligibility status. The denial should list the specific address of the feasible alternative housing.

MEOP Participants

MEOP is a pilot program funded by MassHousing and administered by the DHCD Bureau of Rental Assistance. The program is similar to HB – and former MEOP participants can receive MEOP Graduates benefits similar to HBHA – except that the rental subsidies were for up to four (4) years. Entry to the MEOP program was capped in 2010 and MEOP participants are addressing issues similar to those of HB participants as they face the end of their subsidy periods. Former MEOP participants are entitled to apply to EA under the same universal waivers of the requirement to be within 48 hours of physical eviction and disregarding intervening housing as former HBRA recipients, provided that they have completed the MEOP program. If they left their MEOP unit before completion of the entire MEOP lease term, they will not be eligible for the MEOP-related waivers. MEOP participants can apply to EA from one month before the expiration of their MEOP rental subsidies until twelve (12) months from the final date covered by their rental subsidy, and intervening housing will be disregarded with the same exceptions (a) and (b) applicable to former HBRA participants. Former MEOP participants applying to EA are entitled to a universal waiver of the standard EA application process parallel to that applicable to former HBRA participants and should apply under the centralized expedited electronic process through their MEOP providers for up to thirty (30) days after the expiration of their MEOP rental subsidy. The HC can verify MEOP participation through the DHCD Bureau of Rental Assistance MEOP Coordinator.

Conclusion

HBRA was a program to help homeless families transition to stable housing. For families that were unable to transition successfully by the end of their 24-month HBRA benefit, and who are in good standing at the time that their HBRA benefits expire, EA will be an option if they are otherwise EA eligible. If a former HBRA participant or HBHA stabilization services recipient was terminated for cause or is pending termination at the time that the HBRA benefits expire, that participant faces a 24-month bar from EA eligibility. For questions regarding the status of an HBRA administrative appeal, please check with the DHCD Bureau of Rental Assistance and the HBAA. For questions regarding the effect of an HB termination or the status of the post-hearing documentary review of an HBRA hearing decision, please check with the Legal Office.