




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

To: DHCD Field Staff
From: Rose Evans, Associate Director 
Date: December 11, 2013
RE: Housing Stabilization Notice 2013-03, Exemption from 12-Month Rule for Families receiving HomeBASE Household Assistance

Introduction

This Housing Stabilization Notice (HSN) is intended to explain how to apply a universal waiver of the Emergency Assistance (EA) 12-Month Rule for certain families receiving HomeBASE (HB) Household Assistance (HBHA). In summary:

- HBHA participants who have left the EA Program for safe, permanent housing on or after December 11, 2013, by using HBHA will receive a waiver from 760 CMR 67.06 (1) (d) (the "12-Month Rule") allowing them to re-access EA, if they are not able to maintain that housing for twelve (12) months or more, provided (1) that at least three months have passed since the last use of EA benefits at the time of reapplication, and (2) that the family was in compliance with its stabilization plan at the time that it lost its post-EA housing.
- Four of the five exceptions to the 12-Month Rule detailed in 760 CMR 67.06 (1) (d) 1. a.-e. apply to HBHA participants, and the fifth only in limited circumstances, as discussed below.
- Eligibility for re-entering the EA program after HBHA after program noncompliance shall be governed by the HomeBASE for-cause termination EA re-entry bar, 760 CMR 65.03 (4) (a), not the EA disqualification applicable to non-EA family shelter programs, 760 CMR 67.06 (2) (g).

This HSN should be treated as containing the universal waiver summarized above. Please note that all families applying for EA pursuant to this 12-Month Rule waiver must go through the standard EA application process and be otherwise EA eligible. In addition, the bar on receipt of HomeBASE assistance for a second time within 12 months of the last receipt of such assistance is statutory and unwaivable. Families re-entering EA after use of HBHA will not be able to use HBHA as a means of exiting EA until at least 12 months have passed from the last date on which they received HBHA benefits.

Discussion

The Three-Month Rule

760 CMR 67.06 (1) (d) states: "An EA household is not eligible to receive EA benefits more than once in a twelve month period unless" one of five stated exceptions applies. The purpose of this HSN is to allow a family to re-apply for EA benefits if it left the program for safe, permanent housing as defined in 760 CMR 67.06 (4) (b) 1. A. using HBHA, so long as at

least three months have passed since the family's last use of EA benefits prior to re-application, and the family remained in compliance with its stabilization plan during the time that it received HBHA. The rationale for the waiver is that many EA participants have expressed concern about the 12-Month Rule as a reason for reticence about utilizing HBHA as a means of exiting the EA family shelter system. HBHA is intended to help families overcome initial barriers to re-entering the housing market. Past experience has demonstrated that many families that utilize HBHA as a rehousing tool have been successful. DHCD would like to encourage more EA participants to utilize this resource and expect that the ability to re-enter EA as a fallback will be an incentive to utilize the benefit. The maximum HomeBASE benefit of \$4000 should be able to sustain a family for at least three months and any shorter exclusion period could tempt families to use the HBHA benefit inappropriately and overly rapidly.

Exceptions to the 12-Month Rule Do Not Make a HBHA Participant Eligible for EA Prior to the Three Months Allowed by Waiver.

The 12-Month Rule includes five exceptions outlined in 760 CMR 67.06 (1) (d) 1. a.–e., which would allow a family leaving HBHA to re-enter EA whenever the family becomes homeless again, regardless of the 12-Month Rule. Only one of the listed exceptions—leaving for safe, permanent housing, 760 CMR 67.06 (1) (d) 1. b—could possibly apply in rare circumstances, allowing a family that exited EA with HBHA to seek reinstatement to the EA program prior to the three-month minimum outlined in this HSN.¹

The unsafe housing exception to the 12-Month Rule applies only when housing (1) that appears to meet the definition of safe, permanent housing under 760 CMR 67.06 (4) (b) 2. a., and (2) to which a former EA participant family moves immediately after exiting EA, turns out not to have actually been safe, permanent housing at the time of move-in. 760 CMR 67.06 (1) (d) 1. b. (applicant must “demonstrate[e] that the housing into which it moved did not meet the definition of safe, permanent housing as defined in 760 CMR 67.06(4)(b) *when the household moved into it.*” (emphasis added)). For these purposes, whether housing is safe, permanent housing is determined prospectively at the time of EA exit. It is not a retrospective review at the time that the housing is lost. For example, if the housing is Sanitary Code-compliant when the family moves in, but subsequently develops a serious Code violation such as a leaky roof, the family remains subject to the 12-Month Rule.

Consequence of Noncompliance

If the HBHA participants fail to comply with the requirements of the HB program, the governing regulation in regard to subsequent EA participation is 760 CMR 65.03 (4) (a) 1., which reads:

Any member of a Participant Family that is terminated from receipt of benefits under 760 CMR 65.03 for cause pursuant to 760 CMR 65.05(1) or that otherwise did not make a good faith effort to follow its housing stabilization plan during the

¹ The exception to the 12-Month Rule for housing assistance program benefits only applies when the benefit received is an EA-funded housing assistance program and HBHA is not an EA benefit. It is funded by a separate line item and subject to separate regulations. For further discussion on this point, see HSN 2012-03, *HomeBASE Relation to Emergency Assistance; HomeBASE Not Subject to 12-Month Rule.* 760 CMR 67.06 (1) (d) 1. c. Therefore, the housing assistance program exception is clearly inapplicable to families utilizing HBHA to exit EA.

term of its assistance shall be ineligible for further benefits under 760 CMR 65.00 or through Emergency Assistance 760 CMR 67.00, for 24 months from the end of the last month for which STHT benefits, including, but not limited to, stabilization services, were provided to the Participant Family.

The regulation that addresses failure to cooperate in non-EA shelters and EA and non-EA housing assistance programs, 760 CMR 67.06 (2) (g), is not relevant in this case because noncompliance by HBHA participants is directly addressed by the more specific provisions of 760 CMR 65.03 (4)(a) 1.

The waiver of the 12-Month Rule detailed in this HSN only applies to HBHA families that are in compliance with their stabilization plans at the time that they lose their post-EA housing. If an HBHA family has received an HB termination notice, the family is ineligible for the waiver (unless the termination notice is later overturned on appeal). If an HBHA family applies for EA under the terms of the waiver, the DHCD Homeless Coordinator screening the application should review the application for stabilization plan compliance as evidenced by this issuance of a stabilization compliance letter issued by the relevant HB administering agency. If the letter indicates that the HBHA family has committed conduct that could have led to HBHA termination but no termination notice was issued, the family is ineligible for EA and should be denied. *See* 760 CMR 65.03 (4) (a) 2. If the letter indicates that the HBHA family is in compliance with its stabilization plan, the letter should be considered conclusive of that issue by the Homeless Coordinator screening the application.

Conclusion

DHCD's intent is to allow HBHA participants to re-enter the EA program if they are unable to maintain "permanent housing," as defined in 760 CMR 67.06 (4) (b) 2. a. (housing maintainable for 12-months or more), by using HBHA as a means of exiting the EA system. This HSN provides, through a universal waiver, that current HBHA participants who left EA through use of HBHA are eligible for EA after at least three months from the time that they exit the EA family shelter system, regardless of the provisions of 760 CMR 67.06 (1) (d) 1. The universal waiver detailed in this HSN shall remain in effect until the end of the 2014 Fiscal Year (June 30, 2013) and will then be reviewed and re-assessed on the basis of program results.

For questions regarding the status of an HBHA administrative appeal, please check with the relevant HB administering agency and the HB Hearing Review Coordinator, located in the DHCD Legal Office. For questions regarding the effect of an HBHA termination or the status of the post-hearing documentary review of an HBHA hearing decision, please check with the Legal Office.