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*** NEW JERSEY REGISTER, VOL. 39. NO. 20, OCTOBER 15, 2007 ***

TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
CHAPTER 42. STATE RENTAL ASSISTANCE PROGRAM

N.J.A.C. 5:42 (2007)

Title 5, Chapter 42 -- Chapter Notes

CHAPTER AUTHORITY: *N.J.S.A. 52:27D-287.2.*

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2005 d.152, effective May 16, 2005.

See: *37 N.J.R. 165(a), 37 N.J.R. 1775(a).*

CHAPTER EXPIRATION DATE:

Chapter 42, State Rental Assistance Program, expires on May 16, 2010.

CHAPTER HISTORICAL NOTE:

Chapter 42, Federal Aid Project Notification and Review System, was adopted as R.1970 d.83, effective July 9, 1970. See: 2 N.J.R. 46(d), 2 N.J.R. 61(e).

Chapter 42, Federal Aid Project Notification and Review System, was repealed by R.1983 d.488, effective November 7, 1983. See: 15 N.J.R. 1494(a), 15 N.J.R. 1858(a).

Chapter 42, Work First New Jersey Housing Assistance Program, was adopted as new rules by R.1999 d.124, effective April 19, 1999 (operative January 18, 2000). See: *30 N.J.R. 1463(a), 31 N.J.R. 1061(c).* Chapter 42, Work First New Jersey Housing Assistance Program, expired on April 19, 2004.

Chapter 42, State Rental Assistance Program, was adopted as new rules by R.2005 d.152, effective May 16, 2005. See: Source and Effective Date.

Subchapter 6, State Rental Assistance Program Employment and Training Requirements, and Subchapter 7, Other Requirements, were adopted as new rules by R.2007 d.123, effective May 7, 2007. See: *38 N.J.R. 4279(a), 39 N.J.R. 1688(a).*

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TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS

CHAPTER 42. STATE RENTAL ASSISTANCE PROGRAM
SUBCHAPTER 1. GENERAL PROVISION

N.J.A.C. 5:42-1.1 (2007)

§ 5:42-1.1 Overview

(a) The purpose of these rules is to implement a rental assistance program for low-income individuals or households, who are not currently holders of Federal housing choice vouchers under the Housing Choice Voucher Program (formerly known as the "Section 8 Housing Assistance program"). The program shall provide rental assistance grants, comparable to the Federal Housing Choice Voucher Program and shall be terminated upon the award of a Federal subsidy to the same individual or household.

1. Rental assistance grants will be "tenant-based" and "project-based."

2. Not less than \$ 7.5 million of the rental assistance grants will be reserved for senior citizens aged 65 or older who are currently receiving a rental subsidy under the Housing Choice Voucher Program.

3. Not less than 22 percent of the rental assistance grants will be provided to homeless families with children, graduates of transitional housing programs, and households that are currently participating in a DCA-administered temporary housing assistance program and facing homelessness due to termination of funding.

4. Not less than 17 percent of the allocation under P.L. 2004, c. 140 will be reserved for project-based assistance for special initiatives under the State Rental Assistance Program that may include collaborations with the Division of Youth and Family Services and may include other special populations. Project-based assistance will be administered under N.J.A.C. 5:42-5.

5. Not less than 35 percent of the rental assistance grants will be reserved for households on the S-RAP waiting list.

6. Seven and a half percent of the allocation will be utilized by DCA for administrative expenses.

7. Not less than 10 percent of the vouchers will be set-aside for disabled head of households or spouse.

8. The remaining balance will be allocated to the set-asides listed in (a)1 through 7 above, based on the rate of disbursement in each allocation.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

In (a)2, substituted "Not less than \$ 7.5 million" for "Thirty percent"; rewrote (a)3; in (a)4, substituted "Not less than 17" for "Seventeen" and "may" for the second occurrence of "will"; in (a)5, substituted "Not less than 35" for "Thirty-one" and "on the S-RAP" for "currently on DCA's existing Housing Choice Voucher Program's"; in (a)6, substituted "Seven and a half" for "Five"; and added (a)7 and (a)8.

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SUBCHAPTER 1. GENERAL PROVISION

N.J.A.C. 5:42-1.2 (2007)

§ 5:42-1.2 Definitions

The following terms, when used in this chapter, shall have the following meanings except when the context clearly indicates otherwise.

"Annual income" means the gross amount of income anticipated to be received by the family during the 12 months following the effective date of the examination or re-examination.

"Applicant (applicant family)" means a family that has applied for admission to a program but is not yet a participant in the program.

"Calculation of family share rent" means the family share of rent is 30 percent based upon the household's adjusted annual income, or 25 percent of household's adjusted annual income for elderly and disabled head of household. Rents above the payment standard may increase the family share above 30 percent and 25 percent, respectively.

"Calculation of S-RAP Subsidy" means the difference between the tenant rent and the applicable DCA payment standard or the gross rent, whichever is lower. DCA's payment standard ranges from the current HUD approved fair market rent to 110 percent of the fair market rent based upon bedroom size and housing market. The family is responsible for all rent payments in excess of the payment standard.

"Department" or "DCA" means the Department of Community Affairs.

"Disability" means a person who has one or more of the following disabilities:

1. A disability, as defined in Section 223 of the Social Security Act, *42 U.S.C. § 423*;
2. A physical, mental, or emotional impairment, which is expected to be of long-continued and indefinite duration, substantially impedes his or her ability to live independently; and is of such a nature that such ability could be improved by more suitable housing conditions; and/or
3. A developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, P.L. 106-402. Proof of disability is receipt of Social Security Insurance, Social Security Disability or certification from a licensed physician.

"Domicile" means the legal residence of the household head or spouse as determined in accordance with State and local law.

"Eligible Deductions" means:

1. The deduction for elderly (age 65 or above) or disabled head of household as set forth in *24 CFR 5.611(a)2*, incorporated herein by reference, as amended and supplemented;
2. The deduction for each household member who is under 18 as set forth in *24 CFR 5.611(a)1*, incorporated herein by reference, as amended and supplemented; and
3. The deduction for the estimated cost of tenant paid utilities exclusive of cable and telephone. (The amount of deduction is based upon established DCA utility schedule chart.)

"Fair market rent (FMR)" means the cost of gross rent for an area (shelter plus utilities) of privately owned, decent and safe rental housing of a modest nature (non-luxury) with suitable amenities.

"Family" means a person or group of persons, as determined by the DCA, approved to reside in a unit with assistance under the program.

"Family rent to owner" means the portion of rent to owner paid by the family.

"Family unit size" means the appropriate number of bedrooms for a family, as determined by DCA.

"Household" means two or more persons sharing a domicile, as defined in *24 CFR 982.4*, incorporated herein by reference, as amended and supplemented, whose income and resources are available to meet the household's needs and who are related by blood, marriage or operation of law.

"Housing assistance payment (HAP)" means the monthly assistance payment by DCA, which is payment to the owner for rent to the owner under the family's lease.

"Housing quality standards (HQS)" means the HUD minimum quality standards for housing assisted under the tenant-based programs. See *24 CFR 982.401*.

"Initial rent to owner" means the rent to owner at the beginning of the HAP contract term.

"Lease" means a written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant.

"Loss of family income" means catastrophic expenses or 50 percent loss of family income. This will be reviewed on a case-by-case basis.

"New Jersey resident" means someone whose primary residence is in New Jersey and who is present in New Jersey for at least six months prior to applying for S-RAP assistance.

"Owner" means any person or entity with the legal right to lease or sublease a unit to a participant.

"Participant (participant family)" means a family that has been admitted to the DCA program and is currently assisted in the program. The family becomes a participant on the effective date of the first S-RAP contract executed by the DCA for the family (first day of initial lease term).

"Payment standard" means the calculation of the housing assistance payment that DCA pays to the owner on behalf of the family leasing the unit. Payment standards range from 100 percent through 110 percent of the FMR.

"Premises" means the building or complex in which the dwelling unit is located, including common areas and grounds.

"Private space" means the portion of a contract unit in shared housing that is for the exclusive use of an assisted family.

"Rent to owner" means the total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

"Single room occupancy housing (SRO)" means a unit that provides living and sleeping space for the exclusive use of the occupant, but requires the occupant to share sanitary and/or food preparation facilities.

"S-RAP" means the State Rental Assistance Program.

"Suspension" means stopping the clock on the term of a family's voucher for such period as determined by DCA, from the time when the family submits a request for DCA approval of the tenancy, until the time when the DCA approves or denies the request.

"Tenant" means the person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

"Voucher holder" means a family holding a voucher with an unexpired term (search time).

"Voucher" means a document issued by the DCA to a family selected for admission to the voucher program. This document describes the program and the procedures for DCA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

"Waiting list admission" means an admission from the DCA waiting list.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

Rewrote definitions "Calculation of family share rent", "Eligible deductions", "Fair market rent (FMR)", "Payment standard" and "Single room occupancy housing (SRO)"; in definition "Calculation of S-RAP Subsidy", inserted "or the gross rent, whichever is lower"; added definitions "Disability", "Household", "New Jersey resident" and "S-RAP"; in definitions "Family", "Participant (participant family)", "Suspension", and "Waiting list admission" substituted "DCA" for "PHA" throughout; in definition "Housing assistance payment", substituted "DCA" for "a PHA"; and deleted definition "PHA".

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TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
CHAPTER 42. STATE RENTAL ASSISTANCE PROGRAM
SUBCHAPTER 2. TENANT SET-ASIDE

N.J.A.C. 5:42-2.1 (2007)

§ 5:42-2.1 Tenant set aside preferences/tenant selection

(a) Vouchers will be available under the State Rental Assistance Program (S-RAP), to be allocated as described below:

1. Tenant Set-Aside Preference: Families. Not less than 35 percent of the allocation shall be set aside for families. The Department shall establish county specific waiting lists dependent upon program funding. DCA will accept a pre-determined number of applicants and they will be selected on a first-come first-served basis.

2. Tenant Set-Aside Preference: Elderly. Not less than \$ 7.5 million of the vouchers will be set-aside for the elderly population aged 65 and older. The Department shall utilize a "lottery process" to randomly select participants from its existing Housing Choice Voucher waiting list. When the Housing Choice Voucher waiting list is exhausted, a county specific waiting list will be established for senior citizens age 65 and above. DCA will accept a pre-determined number of applicants and they will be selected on a first-come first-served basis.

3. Tenant Set-Aside Preference: Homeless Families. Not less than 22 percent of the vouchers will be set-aside for homeless families with children, graduates of transitional housing programs and households that are currently participating in a DCA-administered temporary housing assistance program and facing homelessness due to termination of funding. DCA will establish a separate waiting list for this set-aside. Admission to this waiting list shall be from referrals provided by:

- i. The Division of Family Development at the Department of Human Services through the county-based administrative entities that is county board of social services, domestic violence and homeless shelters;
- ii. Transitional housing programs (acknowledged by the DCA-S-RAP) with a certification that the applicant has successfully completed the program requirements and will graduate within 60 days; and
- iii. Transfers of households who are currently on a DCA-administered temporary housing assistance program.

(1) These applicants will be selected from the waiting list with priority given to transfers from the DCA programs.

4. Tenant Set-Aside Preference: Project Based Assistance. Seventeen percent of the vouchers will be project-based for special initiatives that may include DCA/Division of Youth and Family Services initiatives and other special needs.

DCA's existing Housing Choice Voucher waiting list and developer referrals will be used for the project-based assistance set-aside. Project-based assistance will be administered under a separate set of rules.

5. Tenant Set-Aside Preference: Disabled Individuals. Not less than 10 percent of vouchers will be set-aside for disabled head of households or spouse. DCA will establish a separate Statewide waiting list for this set-aside. DCA will accept a pre-determined number of applicants which will be selected on a first-come first-served basis.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).

Section was "Tenant Set-Aside Preferences/Tenant Selection". Rewrote (a)1 through (a)3; in (a)4, inserted "special initiatives that may include"; and added (a)5.

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N.J.A.C. 5:42-2.2 (2007)

§ 5:42-2.2 Tenant-based rental assistance

(a) Annual income means all amounts, monetary or not, which go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in (b)2 above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family

has net family assets in excess of \$ 5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount;

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;

6. Welfare assistance. The full amount of the welfare grant is considered as household income; a household that is sanctioned under welfare rules will have the full grant amount (prior to sanctions) included as household income.

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling; and

8. All regular pay, special pay and allowances of a member of the Armed Forces.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: 38 *N.J.R.* 4279(a), 39 *N.J.R.* 1688(a).

Section was "Tenant-Based Rental Assistance". Rewrote (b)6.

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N.J.A.C. 5:42-2.3 (2007)

§ 5:42-2.3 Income limits

(a) Income limits are as follows:

1. Family Waiting List. Seventy-five percent of the participants admitted to the program must be extremely low-income families (30 percent of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD). The remaining applicants shall not exceed 40 percent of low-income limits (by county) as defined in accordance with the HUD guidelines.

2. Disabled. Seventy-five percent of the participants admitted to the program must be extremely low-income families (30 percent of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD). The remaining

applicants shall not exceed 40 percent of low-income limits (by county) as defined in accordance with the HUD guidelines.

3. Homeless Families, graduates of transitional housing and households that are currently on a DCA-administered temporary housing assistance program. Seventy-five percent of the participants admitted to the program must be extremely low-income families (30 percent of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD). The remaining applicants shall not exceed 40 percent of low-income limits (by county) as defined in accordance with the HUD guidelines.

4. The remaining set-aside preference for Elderly applicants shall not exceed 40 percent of the low-income limits (by county) as defined in accordance with the HUD guidelines.

(b) The initial determination of eligibility is as follows:

1. The initial determination of eligibility is made at the offer of assistance.
2. The household is notified that they have 15 days to declare and document all sources of income received by household members.
3. When all sources of income are declared and verified an initial determination of income eligibility is made.
4. A later loss or reduction in income will not be considered.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

In (a)1, substituted "Family" for "Existing" and inserted the last sentence; in (a)2, substituted "Disabled" for "Elderly" and inserted the last sentence; rewrote (a)3 and (a)4; and added (b).

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N.J.A.C. 5:42-2.4 (2007)

§ 5:42-2.4 Eligible costs

The only eligible cost is rental assistance.

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N.J.A.C. 5:42-2.5 (2007)

§ 5:42-2.5 Flexibility of assistance

The State Rental Assistance Voucher is restricted to residents of New Jersey for use within the State of New Jersey. Participants may exercise mobility options within State.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: 38 *N.J.R. 4279(a)*, 39 *N.J.R. 1688(a)*.

Inserted "residents of New Jersey for use within".

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N.J.A.C. 5:42-2.6 (2007)

§ 5:42-2.6 Voucher length of assistance

(a) For Family Waiting list participants and referrals for homeless families, a rental subsidy under the State Rental Assistance Program will be for up five years; less, if a Housing Choice Voucher becomes available. The program will provide a two-year extension based on extenuating circumstances.

(b) Elderly. A rental subsidy under the State Rental Assistance Program for Elderly participants, age 65 and older, will be unlimited; less, if a Housing Choice Voucher becomes available.

N.J.A.C. 5:42-2.6

(c) Term of voucher. The initial term of the voucher for housing search is 60 days, with the possible extension of two additional 30-day periods.

(d) Disabled. A rental subsidy under the State Rental Assistance Program for disabled participants will be unlimited; less if a Housing Choice Voucher becomes available.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

Section was "Voucher Length of Assistance". In (a), substituted "Family" for "existing"; in (c), substituted "voucher" for "Voucher" and "30-day periods" for "30-days"; and added (d).

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N.J.A.C. 5:42-2.7 (2007)

§ 5:42-2.7 Housing choice

The State Rental Assistance Program shall promote integration of housing by race, ethnicity, social class, disability and income.

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N.J.A.C. 5:42-2.8

N.J.A.C. 5:42-2.8 (2007)

§ 5:42-2.8 Subsidy calculations

(a) The calculation of tenant portion of rent and S-RAP subsidy is as follows:

1. Determine the total gross annual income for the household.
2. Allow a deduction of \$ 480.00 for each minor dependent (under 18 years of age as provided in *24 CFR § 5.611(a)(1)*, incorporated herein by reference, as amended and supplemented.
3. Allow a deduction of \$ 400.00 for a head of household who is 65 and older, or disabled, as provided in *24 CFR § 5.611(a)(2)*, incorporated herein by reference, as amended and supplemented.
4. After any deductions this amount is the adjusted annual income.
5. Divide adjusted annual income by 12 to obtain the monthly adjusted income.
6. The tenant will pay 30 percent (elderly)/25 percent (disabled) of his or her adjusted income for his or her portion of the rent, minus the applicable utility allowance; and the difference between the payment standard and the contract unit.
7. The S-RAP subsidy is the difference between the tenant rent and either the applicable payment standard or contract rent whichever is less.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

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SUBCHAPTER 3. HOUSING UNIT REQUIREMENT

N.J.A.C. 5:42-3.1 (2007)

§ 5:42-3.1 Housing quality standards

(a) The housing units located in buildings with two or less units selected by State Rental Assistance Program recipients must meet Federal Housing Quality Standards set forth in *24 CFR 982.401*, incorporated herein by reference. All inspections will be conducted by the New Jersey Department of Community Affairs.

(b) For housing units located in buildings with three to 49 units, the landlord must provide DCA with a certificate of occupancy completed within one year or DCA will conduct a Housing Quality Standards inspection.

(c) For housing units located in buildings with 50 or more units, the property owner must produce the Certificate of Inspection issued by the DCA Bureau of Housing Inspection pursuant to the Hotel and Multiple Dwelling Law, *N.J.S.A. 55:13A-1* et seq. Owners who have received a continuing penalty notice from the Bureau of Housing Inspection shall not be eligible to participate in the State Rental Assistance Program. For all housing units, subsidized by the State Rental Assistance Program, the tenant has the right to request DCA to conduct a Housing Quality Standards inspection.

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N.J.A.C. 5:42-3.2 (2007)

§ 5:42-3.2 Bedroom requirements

(a) Bedroom requirements for the selected units will be in accordance with DCA's standards used to issue voucher. The actual choice of unit size (that is, the number of bedrooms) is not governed by this section.

(b) Vouchers are issued based upon family size and composition. These subsidy standards are applied consistently for all families of like size and composition. They are also consistent with the space requirements under the housing quality standards (see "Standards Used to Determine Acceptability of Unit Size" in Chapter 8-NJ DCA--Administrative Plan for the Federal Housing Choice Voucher Program) and, therefore, meet the regulatory requirement at *24 CFR 982.402(b)(1)* to "provide for the smallest number of bedrooms needed to house a family without overcrowding."

(c) Subsidy standards for standard issuance are as follows:

Voucher Size	Household Size
0-bedroom	1
1-bedroom	1-2
2-bedrooms	2-4
3-bedrooms	4-6
4-bedrooms	6-8
5-bedrooms	8-10
6-bedrooms	10-12

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TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS
 CHAPTER 42. STATE RENTAL ASSISTANCE PROGRAM
 SUBCHAPTER 4. INELIGIBILITY

N.J.A.C. 5:42-4.1 (2007)

§ 5:42-4.1 Denial of admission or termination of assistance

(a) Denial of assistance for an applicant may include any or all of the following:

1. Denying listing on the DCA-S-RAP waiting list;
2. Denying or withdrawing a S-RAP voucher; and/or
3. Refusing to enter into a HAP contract or approve a lease.

(b) Termination of assistance for a participant may include either refusing to enter into a HAP contract or approve a lease, or terminating housing assistance payments under an outstanding HAP contract.

(c) DCA shall terminate S-RAP assistance for a household evicted from housing assisted under the S-RAP for serious violation(s) of the lease.

(d) DCA shall terminate S-RAP assistance for a household that fails to follow the Employability Development Plan as written by the Department of Labor and Workforce Development.

(e) DCA shall terminate S-RAP assistance for an applicant, or terminate program assistance for a participant if any member of the household fails to sign and submit the consent to release information form.

(f) DCA shall deny admission or terminate assistance because a family member does not establish citizenship or eligible immigration status.

(g) DCA may deny admission for an applicant or terminate assistance for a participant on any of the actions or inactions in (g)1 through 6 below. DCA shall make its determination after considering all relevant circumstances, such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

1. If the family violates any family obligations under S-RAP;
2. If any member of the family has been evicted from Federally-assisted housing in the last three years;
3. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with S-RAP;
4. If the family currently owes a financial obligation to the DCA in connection with any other housing assistance program administered by the Department;
5. If the family breaches a repayment agreement to pay amounts owed to DCA; or
6. If the family has engaged in or threatened abusive or violent behavior toward DCA personnel.

(h) DCA shall terminate assistance for a family that is absent from the assisted unit for a period of more than 180 consecutive calendar days.

(i) DCA may deny assistance to an applicant or terminate assistance to a participant family if any member of the family has committed, based on the preponderance of the evidence that a family member has engaged in such activity, regardless of whether the family member has been arrested, either of the following:

1. A drug-related criminal activity, which includes both drug trafficking and illegal use or possession of drugs whether in the unit or elsewhere on or near the premises.

i. A family member who has engaged in the illegal use of drugs may be required to submit evidence of participation in, or successful completion of, a treatment program to reside in the unit; or

2. A violent criminal act.

(j) Discretion. DCA may impose, as a condition of continued assistance for the household, a requirement that other family members who participated in or were culpable for the action or failure would not reside in the unit. In determining whether to deny admission or terminate assistance because of action or failure to act by members of the family DCA has discretion to consider all of the circumstances in each case, including:

1. The seriousness of the case;

2. The extent of participation or culpability of individual family members;

3. Any mitigating circumstances related to disability of a family member; and

4. The effects of denial or termination of assistance on other family members who were not involved in the action or failure.

(k) Informal review for applicant. DCA shall give an applicant prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the DCA decision. The notice must also state that the applicant may request an informal review.

HISTORY:

Repeal and New Rule, R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

Section was "Denial and termination of assistance".

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N.J.A.C. 5:42-4.2 (2007)

§ 5:42-4.2 Denial of admission or termination of assistance proceedings -- obligations of the family

(a) The family must:

1. Supply any certification, release of information or documentation that the program determines necessary in the administration of the program;

2. Notify the program before vacating the dwelling unit; and

3. Use the dwelling unit solely for residence by the household and as the household's principal place of residence.

N.J.A.C. 5:42-4.2

(b) The household must:

1. Not have any interest in the dwelling unit;
2. Not commit any fraud in connection with the program;
3. Not sublease or assign the lease or transfer the unit; and
4. Maintain all tenant paid utilities.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2006.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

Former *N.J.A.C. 5:42-4.2*, Remaining family member, recodified to *N.J.A.C. 5:42-4.4*.

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 SUBCHAPTER 4. INELIGIBILITY

N.J.A.C. 5:42-4.3 (2007)

§ 5:42-4.3 Denial of Admission or termination of assistance proceedings -- DCA's responsibilities

(a) DCA must give the family a written description of:

1. Family obligations under the program;
2. The grounds on which DCA may deny or terminate assistance because of family action or failure to act; and
3. The process to request a hearing.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

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N.J.A.C. 5:42-4.4 (2007)

§ 5:42-4.4 Remaining family member

(a) General S-RAP Participant Population. If the head of household dies, the remaining family member will continue to receive S-RAP subsidy (provided they have legal capacity to enter into a lease) for the duration of the five-year period, at which time DCA shall determine if the remaining family member is eligible for a his or her own voucher.

(b) For an elderly remaining family member:

1. If the voucher recipient dies, the remaining senior citizen in the home will continue to receive unlimited housing assistance.
2. If the voucher recipient moves to a Federally assisted long-term care facility, the HAP will be terminated.
3. If the voucher recipient dies, and no other senior citizen remains in the unit, the HAP will be terminated.

HISTORY:

Recodified from *N.J.A.C. 5:42-4.2* and amended by R.2007 d.123, effective May 7, 2007.

See: 38 *N.J.R. 4279(a)*, 39 *N.J.R. 1688(a)*.

In (a), inserted "(provided they have legal capacity to enter into a lease)" and substituted "his or her" for "his/her".

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SUBCHAPTER 5. PROJECT-BASED VOUCHER PROGRAM

N.J.A.C. 5:42-5.1 (2007)

§ 5:42-5.1 Project Based Voucher Program

(a) S-RAP requirements for the Project-Based Voucher Program are as follows:

1. The annual allocation shall not be less than 17 percent of the appropriation.
2. Eligible uses shall include existing housing, new construction, and substantial rehabilitation.
3. The term of assistance shall be up to 10 years, contingent upon continued compliance with Housing Quality Standard (24 CFR 982.401), and terms and conditions of S-RAP contract.
4. Project selection method shall include:
 - i. Requests for proposals; and
 - ii. Projects that will serve the special needs populations and can document that appropriate supportive services are available may apply for funds on an on-going revolving basis up to 25 percent of the project-based allocation.
5. Requests for proposals will be accepted from the following agencies:
 - i. Non-profit organizations; and
 - ii. Low-Income Housing Tax Credits Projects.
6. Eligible Tenants shall include Division of Youth Family Service families, working poor, elderly and special needs households.
7. The program shall be targeted towards households earning up to 40 percent of county median income; families in place may have income up to 80 percent of the area median income.
8. No more than 25 percent of units in a building may have a project-based voucher or any other Federal project-based housing assistance. Exceptions to this cap are:
 - i. Project-based dwelling units in single family (one to four unit) properties;
 - ii. Units in a multifamily building (five or more units) set-aside for elderly or disabled families; and
 - iii. Units in a multifamily building set-aside for families participating in a voucher project-based certificate, or public housing Family Self-Sufficiency (FSS) program who are in compliance with or have completed their FSS contract of participation.
9. For under-occupied units, the families may be eligible for a S-RAP voucher, if available, to relocate from a project-based assistance PBA unit to another unit. The family may remain in the PBA unit for one year, an extended term to be determined on a case-by-case basis.
10. All project based units shall be inspected for Housing Quality Standards and must pass inspection before initial occupancy and at least annually for the term of the contract.

HISTORY:

Amended by R.2007 d.123, effective May 7, 2007.

See: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).

In (a)1, substituted "be less than" for "exceed"; in (a)3, substituted "10" for "15"; added new (a)4; recodified former (a)4 through (a)8 as (a)5 through (a)9; rewrote (a)5, (a)6, (a)7 and (a)9; deleted former (a)9; and added (a)10.

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N.J.A.C. 5:42-5.2 (2007)

§ 5:42-5.2 Denial of admission or termination of assistance

(a) Denial of assistance for an applicant may include any or all of the following:

1. Denying listing on the DCA-S-RAP waiting list;
2. Denying or withdrawing a S-RAP voucher; and/or
3. Refusing to enter into a HAP contract or approve a lease.

(b) Termination of assistance for a participant may include either refusing to enter into a HAP contract, or approve a lease, terminating housing assistance payments under an outstanding HAP contract.

(c) DCA shall terminate S-RAP assistance for a household evicted from housing assisted under the S-RAP for serious violation(s) of the lease.

(d) DCA shall terminate S-RAP assistance for a household that fails to follow the Employability Development Plan as written by the Department of Labor and Workforce Development.

(e) DCA shall terminate S-RAP assistance for an applicant, or terminate program assistance for a participant if any member of the household fails to sign and submit the consent to release information form.

(f) DCA shall deny admission or terminate assistance because a family member does not establish citizenship or eligible immigration status.

(g) DCA shall deny admission for an applicant or terminate assistance for a participant on any of the following grounds:

1. If the family violates any family obligations under S-RAP;
2. If any member of the family has been evicted from Federally-assisted housing in the last three years;
3. If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with S-RAP;
4. If the family currently owes a financial obligation to the DCA in connection with any other housing assistance program administered by the Department;
5. If the family breaches a repayment agreement to pay amounts owed to DCA; or
6. If the family has engaged in or threatened abusive or violent behavior toward DCA personnel.

(h) DCA shall terminate assistance for a family that is absent from the assisted unit for a period of more than 180 consecutive calendar days.

(i) DCA may deny assistance to an applicant or terminate assistance to a participant family if any member of the family has committed, based on the preponderance of the evidence that a family member has engaged in such activity, regardless of whether the family member has been arrested, either of the following:

1. A drug-related criminal activity, which includes both drug trafficking and illegal use or possession of drugs whether in the unit or elsewhere on or near the premises.

i. A family member who has engaged in the illegal use of drugs may be required to submit evidence of participation in, or successful completion of, a treatment program to reside in the unit; or

2. A violent criminal act.

(j) Discretion. DCA may impose, as a condition of continued assistance for the household, a requirement that other family members who participated in or were culpable for the action or failure would not reside in the unit. In determining whether to deny admission or terminate assistance because of action or failure to act by members of the family DCA has discretion to consider all of the circumstances in each case, including:

1. The seriousness of the case;
2. The extent of participation or culpability of individual family members;
3. Any mitigating circumstances related to disability of a family member; and
4. The effects of denial or termination of assistance on other family members who were not involved in the action or failure.

(k) Informal review for applicant. DCA shall give an applicant prompt notice of a decision denying assistance to the applicant. The notice must contain a brief statement of the reasons for the DCA decision. The notice must also state that the applicant may request an informal review.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

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SUBCHAPTER 5. PROJECT-BASED VOUCHER PROGRAM

N.J.A.C. 5:42-5.3 (2007)

§ 5:42-5.3 Denial of admission or termination of assistance proceedings -- obligations of the family

(a) The family must:

1. Supply any certification, release of information or documentation that the program determines necessary in the administration of the program;
2. Notify the program before vacating the dwelling unit; and
3. Use the dwelling unit solely for residence by the household and as the household's principal place of residence.

(b) The household must:

1. Not have any interest in the dwelling unit;
2. Not commit any fraud in connection with the program;
3. Not sublease or assign the lease or transfer the unit; and

4. Maintain all tenant paid utilities.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2007.

See: 38 *N.J.R.* 4279(a), 39 *N.J.R.* 1688(a).

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SUBCHAPTER 5. PROJECT-BASED VOUCHER PROGRAM

N.J.A.C. 5:42-5.4 (2007)

§ 5:42-5.4 Denial of admission or termination of assistance proceedings -- DCS's responsibilities

(a) DCA must give the family a written description of:

1. Family obligations under the program;
2. The grounds on which DCA may deny or terminate assistance because of family action or failure to act; and
3. The process to request a hearing.

HISTORY:

New Rule, R.2007 d.123, effective May 7, 2007.

See: 38 *N.J.R.* 4279(a), 39 *N.J.R.* 1688(a).

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TITLE 5. DEPARTMENT OF COMMUNITY AFFAIRS

CHAPTER 42. STATE RENTAL ASSISTANCE PROGRAM
SUBCHAPTER 6. STATE RENTAL ASSISTANCE PROGRAM EMPLOYMENT AND TRAINING REQUIREMENTS

N.J.A.C. 5:42-6.1 (2007)

§ 5:42-6.1 State Rental Assistance Program employment and training requirements

(a) Individuals who are between the ages of 18 and 64 years, are not disabled and reside in a household receiving a S-RAP subsidy shall be referred to the Department of Labor and Workforce Development (DLWD) and must register for employment and training services.

(b) The DCA shall forward the referrals, on a quarterly basis, to the DLWD. All households placed under a S-RAP contract will be referred to DLWD on the following quarterly schedule:

1. S-RAP households with Housing Assistance Payment Contracts effective between January 1 through March 31 shall be referred to DLWD by April 15;

2. S-RAP households with Housing Assistance Payment Contracts effective between April 1 through June 30 shall be referred DLWD by July 15;

3. S-RAP households with Housing Assistance Payment Contracts effective between July 1 through September 30 shall be referred to DLWD by October 15; and

4. S-RAP households with Housing Assistance Payment Contracts effective between October 1 through December 31 shall be referred by January 15.

(c) Individuals who reside in a household receiving a S-RAP subsidy must adhere to their Employability Development Plan as written by the DLWD. The Employability Plan shall not result in a reduction of the individual's family income (for household members currently employed) or substantial expenses. Satisfactory participation in the plan may include the following activities:

1. Regular attendance at scheduled appointments;

2. Verification of job search efforts; or

3. Regular attendance to, and satisfactory performance in, remedial education or vocational training.

(d) Satisfactory progress with the Employability Plan will be determined by DLWD and reported to the DCA quarterly, as follows: January 15, April 15, July 15, and October 15.

(e) Individuals who reside in a household receiving a S-RAP subsidy and who are deemed unsuitable candidates for the DLWD service will receive a certification from DLWD that an Employability Plan is not required to continue receiving a S-RAP grant.

(f) Individuals who fail to comply with the Employability Plan risk the loss of the S-RAP benefit for the household subject to the termination/hearing process set forth at N.J.A.C. 5:42-4.

1. DCA will notify the head of the household, in writing, if any family member fails to adhere to the Employability Plan.

2. Non-compliance with the Employability Plan will result in termination of program participation at the anniversary date of the current Housing Assistance Payment Contract.

i. If the non-compliant family member is not the head of household the head of household will have the option of removing that family member from the dwelling lease.

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N.J.A.C. 5:42-7.1

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SUBCHAPTER 7. OTHER REQUIREMENTS

N.J.A.C. 5:42-7.1 (2007)

§ 5:42-7.1 Reporting requirements

The DCA will provide annual reports outlining the number of households benefiting from assistance, the compliance with income targeting requirements, and the number of households terminated from the program upon written request submitted to the Commissioner.

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SUBCHAPTER 7. OTHER REQUIREMENTS

N.J.A.C. 5:42-7.2 (2007)

§ 5:42-7.2 Waiver of rule

(a) The Commissioner of the DCA may waive sections of this chapter as needed.

(b) The Commissioner reserves the right to allocate State Rental Assistance Program funding to support the development of new and innovative rental assistance programs including populations with an emergent housing need. A waiver shall be granted, only by the Commissioner, under extraordinary circumstances and provided that the waiver conclusively demonstrates that the waiver shall further the purpose of this chapter and S-RAP shall provide a significant benefit to the residents at the State. The amount of assistance shall be at the discretion of the Commissioner.

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N.J.A.C. 5:42-7.3

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N.J.A.C. 5:42-7.3 (2007)

§ 5:42-7.3 DCA disapproval of property owner

(a) The DCA shall not approve the assisted tenancy, if the owner of the property falsifies or conceals any writing, record or financial statement with the purpose to deceive, injure, or conceal any wrong doing in conjunction with the State Rental Assistance Program, Federal housing assistance programs, or any State-funded program.

1. "Owner" includes a principal or other interested party.

(b) Any person who falsifies or conceals any writing, record or financial statement with the purpose to deceive, injure or conceal any wrong doing shall be subject to criminal prosecution, fine, or both pursuant to State law.

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N.J.A.C. 5:42, Appx. (2007)

APPENDIX (Reserved)

HISTORY:

Repealed by R.2007 d.123, effective May 7, 2007.

See: *38 N.J.R. 4279(a)*, *39 N.J.R. 1688(a)*.

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