

SUBCHAPTER 1. GENERAL PROVISIONS

5:41-1.4 Definitions

As used in this chapter, the following term shall have the following meaning unless the context clearly indicates otherwise.

“New Jersey resident” means an individual whose primary residence is in New Jersey and who has resided in New Jersey for at least six consecutive months prior to applying for homelessness prevention assistance.

SUBCHAPTER 2. PROGRAM ELIGIBILITY

5:41-2.1 Eligibility

(a) To be eligible for assistance under the Homelessness Prevention Program, [a person or household] **an applicant** must be a **New Jersey resident and be either homeless or in imminent danger of losing their home as a result of eviction for non-payment of rent, or mortgage foreclosure, or some other cause which the Department of Community Affairs determines to be comparable.**

1. [A household] **An applicant** shall be deemed homeless if the [household] **applicant** involuntarily is without a place of residence for reasons beyond the [household’s] **applicant’s** control.

2. [A household] **An applicant** shall be deemed to be in imminent danger of homelessness if the [household] **applicant** is unable to make rental or mortgage payments for reasons beyond the [household] **applicant’s** control [and], the [household] **applicant** has been served with a summons and complaint for eviction **for non-payment of rent** or a notice of mortgage foreclosure, as the case may be, **which are not more than six months old and bear a docket number and court date, and the applicant will lose their residence within 30 days of the date of application for homelessness prevention assistance.**

3. (No change.)

(b) No [person or household] **applicant** shall be eligible for assistance if their annualized current income (that is, 52 times current weekly income) exceeds the upper limit of “moderate income” as defined in guidelines published annually by the United States Department of Housing and Urban Development.

(c) No [person or household] **applicant** shall be eligible for assistance unless all other available financial resources have first been exhausted. Concealment or transfer of assets to become eligible for assistance shall result in immediate and permanent disqualification.

(d) No [person or household] **applicant** having a delinquent loan with the Program or which has caused the Program to forfeit a security deposit shall be eligible for additional assistance unless the Department of Community Affairs finds that the delinquency or forfeiture was due to a cause that was either beyond the control of the [person or household] **applicant** receiving assistance, or constituted a violation of the rights of that [person or household] **applicant** by another person, and that the cause of the delinquency or forfeiture is not likely to recur.

(e) No [person or household] **applicant** found in any administrative or legal proceeding, in which notice and an opportunity to be heard have been given, to have committed fraud or abuse in another governmental assistance program, including, without limitation, other programs providing rental subsidies, or to have made a false or misleading statement or a material omission in any submission to the Program, shall be eligible for assistance.

(f) No [person or household] **applicant** already receiving an equivalent housing subsidy under any other program shall be eligible for assistance.

1. (No change.)

(g) No [person or household] **applicant** determined by the Program to be unlikely to pay shelter costs after the period of assistance has ended shall be eligible for assistance.

1.(No change.)

2. No [person or household] **applicant** shall be eligible for assistance with back rent unless they have resided in the housing unit for at least three months prior to falling into arrears.

(h) To be eligible for assistance, [a person or household] **an applicant** must have experienced an uncompensated loss of income or increase in expenses, for a limited period of time, that are necessarily incurred for the preservation of human life. Applicants must submit

documentation verifying that one or more of the following caused the inability to pay housing costs:

1.-6. (No change.)

(i) Assistance to any [person or household] **applicant** facing foreclosure as a result of mortgage or property tax arrearages shall be in the form of a loan, which shall be secured by a recorded mortgage.

1. No [person or household] **applicant** shall be eligible for a mortgage loan unless the home is an owner-occupied single family dwelling (which may be an attached or detached house or a condominium unit) that shall have been owned and occupied by the applicant for at least one year prior to falling into arrears on the mortgage loan or property taxes.

2. No [person or household] **applicant** shall be eligible for a mortgage loan in the event of initiated or ongoing bankruptcy proceedings or in the event that the property is encumbered by more than one mortgage.

3. (No change.)

(j) **No applicant shall be eligible for assistance if the applicant is renting from a family member including: a spouse, parent (including a stepparent), child (including a stepchild), grandparent (including a step-grandparent), grandchild (including a step-grandchild), sister (including a stepsister), brother (including a stepbrother), aunt, uncle, cousin, niece, nephew, mother-in-law, father-in-law, sister-in-law, and brother-in-law.**

(k) **No applicant shall be eligible for assistance if the applicant has resolved the landlord-tenant action by entering into an agreement with the landlord that allows the applicant to remain in their residence. Similarly, no applicant shall be eligible for assistance if the applicant has agreed with their lender to a workout, modification, or refinancing of their mortgage loan that allows them to remain in their residence.**

(l) **No applicant shall be eligible for assistance if the applicant resides in any type of subsidized housing.**

(a)

DIVISION OF HOUSING AND COMMUNITY RESOURCES

State Rental Assistance Program

Proposed Readoption with Amendments: N.J.A.C. 5:42

Proposed New Rule: N.J.A.C. 5:42-2.9

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-287.2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-170.

Submit written comments by October 6, 2017, to:

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Department of Community Affairs
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The agency proposal follows:

Summary

The State Rental Assistance Program rules (SRAP), N.J.A.C. 5:42, was scheduled to expire on October 14, 2017, pursuant to N.J.S.A. 52:14B-5.1. As the Department of Community Affairs (Department) submitted this notice of proposal to the Office of Administrative Law prior to the date, the expiration date was extended 180 days to April 15, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Community Affairs has reviewed these rules and has determined that they continue to be necessary and appropriate for the purpose for which

they were adopted, which is to implement P.L. 2004, c. 140, which requires the Commissioner of the Department to establish a rental assistance program for low-income individuals and households.

The chapter proposed for readoption with amendments has seven subchapters, which are as follows: general provisions; tenant set-asides; housing unit requirements; ineligibility; project-based vouchers; employment and training requirements; and other requirements, including reporting requirements, waiver of rules, and disapproval of property owners.

The proposed amendments are necessary to address specific issues that have arisen through the implementation of the program, and to maintain consistency with the complementary Federal program.

The following amendments are proposed:

The Department proposes amendments to N.J.A.C. 5:42-1.1(a)2 regarding the senior citizen allocation. Specifically, "senior citizen" is redefined to include those over the age of 62, and the word "not" is inserted in the sentence between "are" and "currently."

The Department proposes the following amendments to N.J.A.C. 5:42-1.2, Definitions. A definition is added for "elderly" or "senior citizen," "live-in aide," and "veteran." The definition of "eligible deductions" is proposed for amendment to lower the age limit of those eligible from 65 to 62 or above, in order to conform with Federal legislation. The definition of "payment standard" is proposed for amendment to remove the second sentence of the definition regarding the payment standards range.

The Department proposes the following amendments to N.J.A.C. 5:42-2.1, Tenant set-aside preferences/tenant selection: Paragraph (a)2 is proposed for amendment to reflect the change in the definition of elderly or senior citizens in the Federal legislation, as discussed above. The Department proposes to add new paragraphs (a)6 and 7, pertaining to homeless veterans and low-income veterans.

The Department proposes to add new N.J.A.C. 5:42-2.2(c) to specifically state that there shall be no income exclusions, other than those at N.J.A.C. 5:42-2.2(b)2 and 2.9(c).

The Department proposes to amend N.J.A.C. 5:42-2.6(b) to change the age of elderly participants from 65 to 62 in accordance with Federal law, as discussed above.

The Department proposes to amend N.J.A.C. 5:42-2.8(a)3 to change the age from 65 to 62 to comport with Federal law, as discussed above, and paragraph (a)6 to provide that the difference is with the contract rent, not contract unit.

The Department proposes to add new N.J.A.C. 5:42-2.9, Live-in aide. This section is proposed in order to be consistent with the Federal Housing Choice Voucher Program and in recognition of the increased needs of disabled and elderly households. The new rule clarifies that live-in aides do not constitute members of the household in determining eligibility, since they occupy the unit as an employee and not as a member of the family.

The Department proposes to amend N.J.A.C. 5:42-3.1(a) to indicate the division within the Department that will conduct the inspections, and that such inspections shall take place at the initial lease date and annually thereafter. Subsection (b) is proposed for amendment to state that the specific unit in the Department will conduct a Housing Quality Standards inspection at the initial lease date and annually thereafter for all leases, not just those without a current certificate of occupancy. Subsection (c) is proposed for amendment to delete the final sentence.

The Department proposes new N.J.A.C. 5:42-4.1(g) pertaining to the denial of admission or termination of assistance for sex offenders and to add sex offenders subject to a lifetime registration requirement under a state sex offender registration program as a basis for denying admission to the program or terminating assistance; and a 10-year ban for those convicted of other sex offenses.

The Department proposes new N.J.A.C. 5:42-5.2(i)3 to add as a reason for denial or termination of a family member, the commission of an offense that subjects the person to a lifetime registration requirement under a state sex offender registration program. Other sex offenders shall be denied admission or their assistance terminated for 10 years following their conviction for a sex crime.

The Department proposes to amend N.J.A.C. 5:42-6.1(a) to change age 64 to age 62 for the reasons discussed above.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and a new rule will have a positive social impact of enabling low-income households to obtain and maintain decent, safe, and sanitary housing. During Fiscal Year 2017, 3,867 low-income households received assistance from the program.

Economic Impact

From the beginning of the program through the end of Fiscal Year 2017, over \$300 million in rental assistance was provided to eligible households and individuals.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments and a new rule implement a State statute and are not subject to any Federal requirements or standards. The proposed amendment to the definition of elderly conforms to the Federal level definition utilized by the U.S. Department of Housing and Urban Development. Specifically, elderly is redefined to include those over the age of 62. Aligning the State statute with the Federal definition will allow the State Rental Assistance Program to serve a greater number of eligible clients that are in need of affordable housing. In addition, the definition of "live-in aide," which is proposed as part of the creation of proposed new N.J.A.C. 5:42-2.9 is consistent with the following Federal regulations: 24 CFR 5.403 and 24 CFR 982.316. A "live-in aide" is allowed as a reasonable accommodation for a person with a disability under 24 CFR Part 8.

Jobs Impact

The rules proposed for readoption with amendments and a new rule would not have any impact upon jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule would not have any impact upon the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments and a new rule may impose compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Participating property owners may be small businesses and will be required to ensure that their property is in compliance with the inspection requirements contained within these rules. Property owners may have to engage professional services to ensure that the property is decent, safe, and sanitary as required by the Housing Quality Standards and the Bureau of Housing Inspection requirements pursuant to N.J.S.A. 55:13A-1 et seq. Property owners will incur all costs necessary to bring the property into compliance with the inspection standards. These rules have not been designed to minimize such costs, since doing so would be contrary to the rules' purpose to provide decent, safe, and sanitary housing to a portion of the population in need.

Housing Affordability Impact Analysis

The rules proposed for amendments and a new rule will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to rental assistance to low-income households and individuals.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and a new rule concern rental assistance to low-income households and individuals. It would be most unlikely to have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:42.

Full text of the proposed amendments and new rule follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISION

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. (No change.)

2. Not less than \$7.5 million of the rental assistance grants will be reserved for senior citizens aged [65] **62** or older who are **not** currently receiving a rental subsidy under the Housing Choice Voucher Program.

3.-8. (No change.)

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.

... **"Elderly" or "senior citizen" means a person age 62 or older.**

"Eligible Deductions" means:

1. The deduction for elderly (age [65] **62** 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.-3. (No change.)

... **"Live-in aide" means a person meeting the requirements specified in 24 CFR 5.403 and 24 CFR 982.316 that resides with a disabled, elderly, or near elderly participant who is essential to the care and well-being of the participant, is not obligated to financially support the participant, and would not be residing with the participant, but for the participant's need for supportive services.**

... "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.]

... **"Veteran" means an individual discharged following active duty service in the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy.**

SUBCHAPTER 2. TENANT SET-ASIDE

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. (No change.)

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] **62** 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] **62** and above. DCA will accept a pre-determined number of applicants and they will be selected on a first-come first-served basis.

3.-5. (No change.)

6. Tenant Preference: Homeless Veterans. DCA shall apply a preference for homeless veterans. A homeless veteran's preference will be added to the homeless set-aside waiting list.

7. Tenant Preference: Low-Income Veterans. DCA shall apply a preference for veterans who were discharged following active-duty service in the U.S. Air Force, Army, Coast Guard, Marine Corps, or Navy and have household income that does not exceed 30 percent of

area median income. A veteran's preference will be added to the family set-aside tenant-based waiting list.

5:42-2.2 Tenant-based rental assistance

(a)-(b) (No change.)

(c) Income Exclusions. There shall be no income exclusions, except for those set forth in (b)2 above and 2.9(c).

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 to 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] **62** and older, will be unlimited; less, if a Housing Choice Voucher becomes available.

(c)-(d) (No change.)

(e) The length of assistance for homeless veterans and low-income veterans will be five years, unless the homeless or low-income veterans are permanently disabled, at which time they would be subject to (d) above.

5:42-2.8 Subsidy calculations

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

1. (No change.)

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] **62** and older, or disabled, as provided in 24 CFR [§]5.611(a)(2), incorporated herein by reference, as amended and supplemented.

4.-5. (No change.)

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] rent.

7. (No change.)

5:42-2.9 Live-in aide

(a) A participant or applicant may request that the DCA approve a live-in aide to reside in the unit and provide necessary supportive services for a household member who is a person with a disability.

(b) The DCA shall approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR Part 8 in order to make the program accessible to and usable by the household member with a disability.

1. The DCA shall determine the need for a live-in aide upon review and approval of a Certification of Need for Live-In Aide form submitted by the applicant or participant and completed by a physician specifying the number of days per week and the number of hours per day that the live-in aide must provide necessary supportive services.

2. The DCA will not approve a request for a live-in aide where the live-in aide was a member of the household prior to the household's request to approve the live-in aide.

(c) The income of a DCA-approved live-in aide will be excluded from the annual income of the assisted household.

SUBCHAPTER 3. HOUSING UNIT REQUIREMENT

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] **DCA, Division of Housing and Community Resources, at the initial lease date and annually thereafter.**

(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] **and DCA, Division of Housing and Community Resources**, will conduct a Housing Quality Standards inspection at the initial lease date and annually thereafter.

(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.] **For all housing units subsidized by the State Rental Assistance Program, the DCA, Division of Housing and Community Resources, will conduct a Housing Quality Standards inspection at the initial lease date and annually thereafter.**

SUBCHAPTER 4. INELIGIBILITY

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

(a)-(f) (No change.)

(g) DCA shall deny admission or terminate assistance to sex offenders subject to a lifetime registration requirement under a state sex offender registration program. Other sex offenders shall be denied admission or their assistance terminated for 10 years following their conviction for a sex crime.

[(g)] **(h) DCA may deny admission for an applicant or terminate assistance for a participant on any of the actions or inactions in [(g)1] (h)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.-6. (No change.)

Recodify existing (h)-(k) as **(i)-(l)** (No change in text.)

SUBCHAPTER 5. PROJECT-BASED VOUCHER PROGRAM

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

(a)-(h) (No change.)

(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] any 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[.]; or

3. A family member has committed an offense and is subject to a lifetime registration requirement under a state sex offender registration program. Other sex offenders shall be denied admission or their assistance terminated for 10 years following their conviction for a sex crime.

(j)-(k) (No change.)

SUBCHAPTER 6. STATE RENTAL ASSISTANCE PROGRAM
EMPLOYMENT AND TRAINING
REQUIREMENTS

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

(a) Individuals who are between the ages of 18 and [64] **62** 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)-(f) (No change.)

(a)

**DIVISION OF FIRE SAFETY
Uniform Fire Code**

Proposed New Rule: N.J.A.C. 5:70-2.21

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-198.17 and P.L. 2013, c. 228.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-176.

Submit written comments by: October 6, 2017, to:

Kathleen Asher
Department of Community Affairs
PO Box 800
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Fax Number: (609) 984-6696

The agency proposal follows:

Summary

New N.J.A.C. 5:70-2.21 is proposed to establish requirements for identifying emblems for structures with solar panels. This notice of proposal amends the Uniform Fire Code to comply with the provisions of P.L. 2013, c. 228 (N.J.S.A. 52:27D-198.17).

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Department believes that the proposed new rule will provide a positive social impact by increasing safety for firefighters, providing warning of the presence of solar photovoltaic systems.

Economic Impact

The Department does not anticipate that the proposed new rule would have any adverse economic impact. The cost of the sign is modest and is mandated by the enabling legislation. The proposed new rule may be expected to have a positive economic impact by improving safety of firefighters who are expected to operate within or on the roofs of buildings equipped with or powered by a solar array.

Federal Standards Statement

No Federal standards analysis is required because the new rule is not being proposed in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Job Impact

The Department does not anticipate that any jobs would be created or lost as a result of the proposed new rule.

Agriculture Industry Impact

The Department does not anticipate that the proposed new rule would have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The Department expects that the proposed new rule will not impose any added recordkeeping or reporting requirements on small businesses, as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The new rule compels that the signs will be permanently affixed to structures, and compliance will be addressed during periodic fire inspections as defined in N.J.A.C. 5:70-2.10, Enforcement procedures, 2.11, Service of notice and orders, and 2.12, Penalties. The Department believes that no additional professional services would be required for any property or business owner required to comply, whether a small business or otherwise. Because the sign is mandated by statute and intended to provide for firefighter safety on buildings with solar arrays, there is no basis for differential treatment of small businesses.