

## CHAPTER 42

## STATE RENTAL ASSISTANCE PROGRAM

## Authority

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

## 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Chapter 42, Federal Aid Project Notification and Review System, was repealed by R.1983 d.488, effective November 7, 1983.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.

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

2. Thirty percent of the rental assistance grants will be reserved for senior citizens aged 65 or older who are not currently receiving a rental subsidy under the Housing Choice Voucher Program.

3. Seventeen percent of the rental assistance grants will be provided to homeless families with children.

4. Seventeen 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 will 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. Thirty-one percent of the rental assistance grants will be reserved for households currently on DCA's existing Housing Choice Voucher Program's waiting list.

6. Five percent of the allocation will be used by DCA for administrative expenses.

## 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 of their adjusted annual income, or 25 percent of their adjusted annual income for elderly and disabled head of household.

"Calculation of S-RAP subsidy" means the difference between the tenant rent and the applicable DCA payments standard. 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.

"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 or disabled head of household (\$400.00);
2. The deduction for each household member who is under 18 (\$480.00); 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 rent, including the cost of utilities (except telephone) as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

"Family" means a person or group of persons, as determined by the PHA, 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.

"Housing assistance payment (HAP)" means the monthly assistance payment by a PHA, 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.

"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 PHA for the family (first day of initial lease term).

"Payment standard" means the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

"PHA" means a public housing authority.

"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 if 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 contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

"S-RAP contract" means State Rental Assistance Payments contract.

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

## 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. **Tenant Set-Aside Preference: Existing Waiting List.** Thirty-one percent of the vouchers will be set aside for assistance under the State Rental Assistance Program for persons or households on the Department of Community Affairs' existing Housing Choice Voucher Program waiting list. Selection from the existing waiting list does not include priorities for selection. The Department of Community Affairs shall utilize a “lottery-type process” to randomly select participants from its existing Housing Choice Voucher waiting list.

2. **Tenant Set-Aside Preference: Elderly.** Thirty percent of the vouchers will be set-aside for the elderly population aged 65 and older. The Department of Community Affairs shall utilize a “lottery process” to randomly select participants from its existing Housing Choice Voucher waiting list.

3. **Tenant Set-Aside Preference: Homeless Families with Children.** Seventeen percent of the vouchers will be set-aside for homeless families with children. A separate wait list should be developed from referrals provided by the Department of Human Services through the county-based administrative entities, that is, county board of social services, domestic violence and homeless shelters.

4. **Tenant Set-Aside Preference: Project Based Assistance.** Seventeen percent of the vouchers will be project-based for 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.

### 5:42-2.2 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. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this subparagraph shall be the amount resulting from one application of the percentage;

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.

#### 5:42-2.3 Income limits

(a) Income limits are as follows:

1. Existing 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).

2. Elderly. 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).

3. Homeless Families with Children. 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).

4. The remaining set-aside preferences for applicants of the Existing Waiting List and Homeless Families with Children shall not exceed 40 percent of the low-income limits (by county), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD).

#### 5:42-2.4 Eligible costs

The only eligible cost is rental assistance.

#### 5:42-2.5 Flexibility of assistance

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

#### 5:42-2.6 Voucher Length of Assistance

(a) For existing 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 and older, will be unlimited; less, if a Housing Choice Voucher becomes available.

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

#### 5:42-2.7 Housing choice

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

### 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.

(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.

#### 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:

<u>Voucher Size</u>	<u>Household Size</u>
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

#### SUBCHAPTER 4. INELIGIBILITY

##### 5:42-4.1 Denial and termination of assistance

(a) **Citizenship.** Applicants must meet requirements for citizenship and eligible immigration status, as contained in Federal regulations, 24 CFR Part 5, subpart E, incorporated herein by reference.

(b) Assistance may be denied or terminated at any time to an individual and/or family if a member of the family has engaged in any criminal activity, including 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.

1. 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.

(c) **Termination from Federally assisted programs.** Assistance may be denied or terminated to an individual who has been terminated from the Housing Choice Voucher program within the prior 10 years.

(d) If an individual or family is found to have committed any fraud as a participant in the program, the rental subsidy will be canceled after 30 days notice to the landlord. The DCA reserves the right to recapture any overpaid subsidy.

(e) Assistance may be terminated if the household fails to adhere to the "Obligations of the Household" which are incorporated herein by reference as the chapter Appendix. Prior to any adverse action, there shall be an opportunity for an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Procedure Rules, N.J.A.C. 1:1, to ensure that due process is afforded to the participant.

(f) If it is determined by a court of law that a participating individual or family has violated any lease terms and the court orders an eviction from the subsidized housing unit

because of lease violations, the program will terminate subsidy when the eviction becomes effective.

(g) The family that is absent for a period of more than 180 consecutive calendar days shall have assistance terminated.

##### 5:42-4.2 Remaining family member

(a) **General S-RAP Participant Population.** If the head of household dies, the remaining family member will continue to receive a S-RAP subsidy for the duration of the five-year period, at which time DCA shall determine if the remaining family member is eligible for a his/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.

#### SUBCHAPTER 5. PROJECT-BASED VOUCHER PROGRAM

##### 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 exceed 17 percent of the appropriation.

2. Eligible uses shall include existing housing, new construction, and substantial rehabilitation.

3. The term of assistance shall be 15 years, contingent upon continued compliance with Housing Quality Standard (24 CFR 982.401), and terms and conditions of S-RAP contract.

4. The project selection method shall include request for proposals from the following agencies:

i. Non-profit organizations (50 vouchers available); and

ii. Low-Income Housing Tax Credit Projects.

5. Eligible tenants shall include Division of Youth and Family Services families (100 vouchers will be set aside), working poor, elderly and special needs eligible families in place may have income up to 80 percent area median.

6. The program shall be targeted towards the households of the working poor, Special Needs and DYFS households earning up to 40 percent of county median income, and elderly households.

7. 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.

8. For under-occupied units, the families may be eligible for S-RAP voucher, if available, to relocate from a project-based assistance unit to another unit. The family may remain in the unit for one year, an extended term to be determined on a case-by-case basis.

9. Standards for denial or termination of assistance are as follows:

- i. **Citizenship.** Applicants must meet requirements for citizenship and eligible immigration status, as contained in Federal regulations, 24 CFR Part 5, Subpart F;
- ii. **Drug Activity Violations.** Assistance may be denied or terminated at any time to an individual and/or family if a member of the family has engaged in any criminal activity, including 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. 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;
- iii. **Termination from Federally assisted programs.** Assistance may be denied or terminated to an individual who has been terminated from the Housing Choice Voucher program or other Federally subsidized housing;

iv. **Termination of Tenancy.** Assistance may be terminated if the household fails to adhere to the "Obligations of the Household." Prior to any adverse action, there is an opportunity to request an Office of Administration Law hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, to ensure that due process is afforded to the participant;

v. **Fraud.** If an individual or family is found to have committed any fraud as a participant in the program, the rental subsidy will be canceled after 30 days notice to the landlord. The DCA reserves the right to recapture any overpaid subsidy;

vi. **Violation of lease agreement.** If it is determined by a court of law that a participating individual or family has violated any lease terms and the court orders an eviction from the subsidized housing unit because of lease violations, the program will terminate subsidy when the eviction becomes effective;

vii. A family shall lose eligibility if absent from the unit for a period of more than 180 consecutive calendar days.

#### APPENDIX

##### Obligations of the Household:

1. Supply any certification, release of information or documentation which the program determines necessary in the administration of the program.
2. Notify the program before vacating the dwelling unit.
3. Use the dwelling unit solely for residence by the household and as the household's principal place of residence.
4. The household must not have any interest in the dwelling unit.
5. The household must not commit any fraud in connection with the program.
6. The household must not sublease or assign the lease or transfer the unit.
7. The household must maintain all tenant paid utilities.