

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.

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".

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 1253) adopted, which found that the Department of Community Affairs properly terminated petitioner's participation in the State Rental Assistance Program after petitioner failed to timely notify the Agency of her rental arrears; had she had done so, she could have avoided her eviction. *G.L. v. Dep't of Community Affairs*, OAL Dkt. No. CAF 5764-08, 2008 N.J. AGEN LEXIS 1282, Final Decision (August 25, 2008).

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.

(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.

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.

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.

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

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

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.

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".

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 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.

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.

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.

New Rule, R.2007 d.123, effective May 7, 2007.
See: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).

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.

New Rule, R.2007 d.123, effective May 7, 2007.
See: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).

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.

New Rule, R.2007 d.123, effective May 7, 2007.
See: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).

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 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.

SUBCHAPTER 7. OTHER REQUIREMENTS

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.

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.

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.

APPENDIX

(Reserved)

Repealed by R.2007 d.123, effective May 7, 2007.
Sec: 38 N.J.R. 4279(a), 39 N.J.R. 1688(a).