



2012 NOV -5 PM 2:14

OFFICE OF THE
MAYOR

VINCENT C. GRAY
MAYOR

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave., N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and enactment by the Council is the "Family Re-Housing and Stabilization Program Regulations Approval Resolution of 2012".

If enacted, the proposed rules would adopt a new Chapter 78 of Title 29 of the District of Columbia (District) Municipal Regulations that would establish the eligibility requirements for the Family Re-Housing and Stabilization Program (FSRP).

In 2009, the District received Federal American Recovery and Reinvestment Act of 2009 (ARRA) stimulus funds to create the "Homelessness Prevention and Rapid Re-Housing" (HPRP) program, which provided federal funding for both prevention (paying rent or utility arrearages) and re-housing (security deposit, first month's rent, and up to eighteen (18) months rental subsidy). Through this program the District successfully re-housed families who had become homeless, over ninety percent (90%) of which did not return to the shelter system. The funding for the HPRP was one time funding, which expired July 2012.

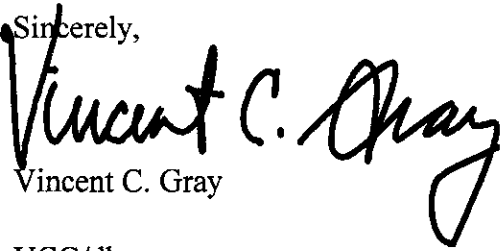
Because of the success of the program, The District Department of Human Services (DHS) has created a similar program with local funds from the DHS Homeless Services budget, to provide additional resources to re-house additional families who have entered the District's shelter program.

The rulemaking is authorized by sections 7, 28, 30 and 31 of the Homeless Services Reform Act of 2005, as amended ("HSRA"), effective October 22, 2005, D.C. Law 16-35, D.C. Official Code §§ 4-753.01, 4-755.01, 4-756.01 and 4-756.02 (2006 Supp.), Mayor's Order 2006-20, dated February 13, 2006, and Mayor's Order 2007-80, dated April 2, 2007.

This rulemaking requires a 45-day period for review by the Council.


I urge the Council to take prompt and favorable action on the "Family Re-Housing and Stabilization Program Regulations Approval Resolution of 2012".

Sincerely,

A handwritten signature in black ink that reads "Vincent C. Gray". The signature is written in a cursive style with a large, looped initial "V".

Vincent C. Gray

VCG/db
Enclosure


Chairman Phil Mendelson
at the request of the Mayor

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6 A PROPOSED RESOLUTION
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11 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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16 Chairman Phil Mendelson, at the request of the Mayor, introduced the following
17 resolution, which was referred to the Committee on _____.
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19 To approve the proposed rules to implement the District of Columbia's Family Re-
20 Housing and Stabilization Program for Families Experiencing Homelessness.
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22 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That
23 this resolution may be cited as the "Family Re-Housing and Stabilization Program
24 Regulations Approval Resolution of 2012".

25 Sec. 2. Pursuant to section 31 of the Homeless Services Reform Act of 2005,
26 effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02), the Mayor,
27 on _____, 2012, transmitted to the Council the proposed rulemaking adopted by the
28 Director of the Department of Human Services to implement the District of Columbia's
29 Family Re-Housing and Stabilization Program. The Council approves the rulemaking,
30 published at 59 DCR 30, to add a new Chapter 78 to Title 29 of the District of Columbia
31 Municipal Regulations.

32 Sec. 3. Fiscal impact.

33 The Council adopts the fiscal impact statement in the committee report as the
34 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home

1 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
2 206.02(c)(3)).

3 Sec. 4. The Council shall transmit a copy of this resolution, upon its adoption, to
4 the Mayor, the Director of the Department of Human Services, and the Administrator of
5 the Office of Documents and Administrative Issuances.

6 Sec. 5. This resolution shall take effect immediately.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Human Services (Department), pursuant to the authority set forth in sections 7, 28, 30, and 31 of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code §§ 4-753.01, 4-755.01, 4-756.01 and 4-756.02 (2008 Repl. & 2012 Supp.)), Mayor’s Order 2006-20, dated February 13, 2006, and Mayor’s Order 2007-80, dated April 2, 2007, hereby gives notice of the adoption of the following new Chapter 78 of Title 29 of the District of Columbia Municipal Regulations, entitled “Family Re-Housing and Stabilization” as emergency rulemaking to become effective immediately. In accordance with section 31 of the HSRA, these proposed rules are being transmitted to the Council of the District of Columbia. The Department also gives notice of its intent to take final rulemaking action to adopt these regulations in not less than thirty (30) days from the publication of this notice in the *D.C. Register*. The final rules may not become effective until the expiration of the forty-five (45) day Council review period or upon approval by Council resolution, whichever occurs first.

The purpose of the new chapter is to establish rules to administer the District of Columbia’s Family Re-Housing and Stabilization Program (FRSP). The purpose of the FRSP is to provide a security deposit and a rental subsidy for up to twelve (12) months to re-house families who are homeless and who can demonstrate they are reasonably likely to have the financial means to pay their full rental costs independent of FRSP assistance within twelve (12) months.

Emergency rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2011 Repl.)), is necessary for the immediate preservation of the health, safety, and welfare of District residents who are homeless by supporting their rapid return to permanent housing. The emergency rules were adopted on May 24, 2012 and shall expire within one hundred twenty (120) days from its effective date or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first.

Add the following new Chapter 78 to Title 29 of the District of Columbia Municipal Regulations to read as follows:

CHAPTER 78 FAMILY RE-HOUSING AND STABILIZATION PROGRAM

7800 SCOPE

7800.1 The purpose of the Family Re-Housing and Stabilization Program (“FRSP” or “Program”) is to provide assistance to rapidly re-house families who are homeless and have the capacity to quickly achieve stable housing independent of FRSP assistance.

- 7800.2 The provisions of this chapter shall provide the application process, eligibility criteria, benefit determination, and appeal procedures for the Program.
- 7800.3 Nothing in these rules shall be interpreted to mean that FRSP assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.
- 7800.4 The Department may execute contracts, grants, and other agreements as necessary to carry out the Program.

7801 APPLICATION PROCESS

- 7801.1 An authorized representative may apply on behalf of the applicant, if the applicant provides a written and signed statement stating why the applicant cannot apply in person and the name and address of the person authorized to act on the applicant's behalf.
- 7801.2 Each FRSP application shall be in writing on a form prescribed by the Department and signed by the applicant or authorized representative under penalty of perjury. If the applicant is married and living with a spouse, both spouses shall sign the application as an applicant unit (hereinafter "applicant").
- 7801.3 If requested by an applicant with a disability, or the authorized representative of an applicant with a disability, the Provider shall assist such applicant or authorized representative with any aspect of the application process necessary to ensure that the applicant with a disability has an equal opportunity to submit an application.
- 7801.4 The Department shall provide application forms, and the Provider shall accept applications from each applicant who requests assistance.
- 7801.5 At the time of application, each applicant shall be provided with a clear, concise, written notice containing the applicant's rights and responsibilities and the Provider's responsibilities with respect to the Program. The Provider shall request that all applicants, personally or through an authorized representative, sign a document acknowledging receipt of this notice.
- 7801.6 As part of the application process, all applicants, personally or through an authorized representative, shall sign a release form authorizing the Provider to obtain or verify information necessary to process the application.
- 7801.7 Each applicant shall cooperate fully in establishing his or her eligibility, including the basis of the applicant's homelessness and how the household reasonably expects to be able to sustain housing independent of the Program at the end of FRSP assistance. This shall include, but not be limited to, providing documentation or collateral proof of:

- (a) Household composition;
- (b) Employment status and employment history;
- (c) Income and assets;
- (d) Household expenses;
- (e) Facts and circumstances surrounding homelessness, including rental and other relevant housing history;
- (f) Financial and other assets available or obtainable in the short and long term to support housing stability;
- (g) Facts and circumstances surrounding financial and other barriers to housing stability; and
- (h) Facts and circumstances surrounding work experience, education, or training that can contribute to the household's ability to meet its housing costs by the end of the Program.

7801.8 The Provider shall give to each applicant a written request specifying the information needed to complete the application, and the Provider shall discuss with the applicant how to obtain the information. The application shall be considered complete when all required information is furnished.

7801.9 The Provider may use, among other things, documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify applicant information.

7801.10 An application shall be considered abandoned if the applicant has not obtained and provided to the Provider the required information for eligibility determination within sixty (60) calendar days of the date of application.

7802 APPLICANT UNIT

7802.1 The applicant unit shall be composed of each individual who lives in the same household and whose needs, assets, and income are combined to determine eligibility.

7802.2 The applicant unit shall include:

- (a) Persons related by full or half blood;
- (b) Persons related by legal adoption;

- (c) Persons related by marriage, including stepchildren and unmarried parents of a common child who live together; and
- (d) Persons with legal responsibility for an unrelated minor child or an unrelated adult with a disability.

7802.3 The applicant unit may include any person not included by § 7802.2, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that the individuals intend to remain together as a family unit.

7802.4 A person temporarily away from home due to employment, hospitalization, vacation, or a visit shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household, if he or she returns to the home on occasional weekends, holidays, and during the summer vacations.

7803 ELIGIBILITY CRITERIA

7803.1 An applicant unit shall be eligible to receive FRSP assistance if the applicant unit is a family, as defined in § 7899, that:

- (a) Is currently homeless, because the applicant unit:
 - (1) Lacks a fixed, regular residence that provides safe housing, and lacks the financial means to acquire such a residence immediately, including victims of domestic violence who cannot remain in their present housing for safety reasons; or
 - (2) Has a primary nighttime residence that is
 - (i) A supervised publicly or privately operated shelter or transitional housing facility designed to provide temporary living accommodations; or
 - (ii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; and
 - (3) Has no other housing options identified;
- (b) Is a resident of the District of Columbia as defined by D.C. Official Code § 4-751.01(32); and
- (c) Demonstrates that there is a reasonable expectation that the applicant will have the financial capacity to pay the full rental amount at the end of FRSP assistance. Failure to demonstrate that the household will be

reasonably likely to sustain stable housing following FRSP assistance shall result in a denial of eligibility for FRSP benefits. Relevant factors for determining whether a household can reasonably be expected to have the financial means to pay the full rental costs following FRSP assistance include:

- (1) Current income;
- (2) Expected future income;
- (3) Rental history;
- (4) Employment history;
- (5) Employment potential based on job skills, certifications, or participation in a training or employment program;
- (6) Previous receipt of emergency rental assistance, including Emergency Rental Assistance Program or Homelessness Prevention and Rapid Re-Housing Program benefits within the last eighteen (18) months, whether applying for the same or a different financial benefit;
- (7) Identification by the District of Columbia Housing Authority (DCHA) or other subsidized housing provider, as a household that is reasonably likely to receive DCHA or other subsidized housing within approximately twelve (12) months; or
- (8) Other relevant factors.

7803.2 Eligible applicants or recipients that are subject to and currently sanctioned under the Temporary Assistance for Needy Families (TANF) program shall be considered to have failed to demonstrate that the household will be reasonably able to sustain stable housing following FRSP assistance, unless the applicant or recipient can demonstrate that they are actively working to have the sanction lifted, or have or will have the financial and other resources necessary to sustain housing independent of receipt of TANF benefits.

7803.3 A FRSP applicant or participant determined eligible under this section shall be subject to a re-evaluation and a redetermination of eligibility at least once every four (4) months.

7803.4 The ability of the household to pay an increasing share of the rental payment as part of receiving additional rental assistance will be a factor in the re-determination of eligibility for additional months of assistance pursuant to

§ 7803.3. Households unable to meet the requirement to pay an increased share of the rental payment at the four (4) month recertification shall be evaluated on a case-by-case basis to determine their continued eligibility, based on their ability to demonstrate capacity to meet the FRSP housing stability requirement at the end of any additional rental assistance.

7803.5 The Provider shall complete the eligibility determination in as short a time as possible, but not later than ten (10) calendar days after the date of a completed application. The Provider shall not be responsible for delays caused by:

- (a) The applicant's failure to supply information to document facts stated in the completed application without which eligibility or benefits cannot be determined;
- (b) The inability to contact the applicant;
- (c) Evidence of misrepresentation in the application;
- (d) Delay by a third party from whom the Provider has requested information and over whom the Provider has no control; or
- (e) Any other delay in receipt of information or documentation necessary to complete the application over which the Provider has no control.

7803.6 The Provider shall create and maintain in the applicant's or participant's file clear and detailed documentation of the Program's eligibility and re-eligibility determination of each applicant, particularly as it relates to how the household expects to be able to pay the full rental amount after the FRSP rental subsidy ends.

7803.7 If an applicant is determined eligible pursuant to § 7803.1, or redetermined eligible pursuant to § 7803.3, for FRSP assistance, the Provider shall give to the applicant, personally or through an authorized representative, a Notice of Eligibility Determination and include in this notice:

- (a) A clear statement of the eligibility determination;
- (b) A clear and detailed statement that participation in the FRSP is not approved until an applicant who has been determined eligible has selected a FRSP-approved housing unit, submitted an application for and been approved by the landlord for rental of the approved unit, and has signed the FRSP Notice of Rental Subsidy Terms and Conditions form;
- (c) A clear statement that all FRSP participants shall actively and satisfactorily participate in case management or risk termination of FRSP benefits; and

- (d) A clear and complete statement of the client's right to appeal the eligibility determination through fair hearing and administrative review proceedings in accordance with § 7808, including the appropriate deadlines for instituting the appeal.

7803.8 If an applicant is determined ineligible for FRSP assistance, the Provider shall give to the applicant, personally or through an authorized representative, a Notice of Denial of Eligibility and include in this notice:

- (a) A clear statement of the denial of eligibility;
- (b) A clear statement of the factual basis for the denial;
- (c) A reference to the statute, regulation, or policy pursuant to which denial was made; and
- (d) A clear and complete statement of the client's right to appeal the denial through fair hearing and administrative review proceedings pursuant to § 7808, including the appropriate deadlines for instituting the appeal.

7803.9 An adult applicant shall be denied FRSP assistance if the household's housing crisis is the result of his or her refusal without "good cause" to accept employment or training for employment.

7803.10 An applicant shall be considered to have refused employment or training if the applicant has:

- (a) Voluntarily quit employment or a bona fide training program within three (3) months prior to application; or
- (b) Rejected an employment or a bona fide training program opportunity within the three (3) months prior to the application.

7803.11 "Good cause" reasons for voluntarily quitting a job or not participating in an employment training program include circumstances beyond the individual's control, such as, but not limited to, the following, when the applicant can show with reliable or credible information, that:

- (a) Wages are below the minimum wage;
- (b) The applicant is physically or mentally unable to perform the work or gain access to the worksite;
- (c) Working conditions violate health, safety, or worker's compensation regulations and present a substantial risk to health or safety;

- (d) The employer discriminated against the applicant based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business in violation of the D.C. Human Rights Act of 1978, effective December 13, 1978 (D.C. Law 2-38; D.C. Official Code §§ 2-1401.01 *et seq.* (2007 Repl. & 2012 Supp.));
- (e) The requirements of the job would be contrary to his or her religious beliefs;
- (f) A household emergency exists (including domestic violence);
- (g) The resignation is recognized by the employer as retirement;
- (h) Child care, which is necessary for the adult applicant to accept work or training, is not reasonably available; or
- (i) The applicant could not maintain work or participate in a training program because the applicant must take care of a family member who is either ill or has a disability.

7804 PRIORITY DETERMINATION

- 7804.1 Families residing in a Department-funded family hypothermia shelter, temporary shelter, and transitional housing programs or determined to be a Priority One for shelter or supportive housing pursuant to 29 DCMR § 2508.1(a)(1), shall receive the first priority for the FRSP.
- 7804.2 Families residing in a non-Department funded family shelter and housing programs within the Continuum of Care shall receive the second priority.
- 7804.3 Within each priority group, additional priority may be made based on the following:
 - (a) The family's prospective ability to have the financial capacity to pay the full rental amount at the end of FRSP assistance, as demonstrated by income, documented work experience, or other relevant factors;
 - (b) The length of time the family has resided in such programs since the most recent placement;
 - (c) Need to provide a reasonable modification based on a disability; and

- (d) Other relevant factors.

7805 UNIT IDENTIFICATION

- 7805.1 Participation in the FRSP is conditioned on accepting a unit that passes a housing inspection and meets the Rent Reasonableness Standard. For units that provide wheelchair accessibility, rent reasonableness shall take into account that such a unit may reasonably have a higher rent than other units in the same market or building that are not wheelchair accessible.
- 7805.2 A FRSP eligible applicant shall be assigned one (1) unit in the available unit inventory list. The Program shall consider the participant's stated needs and preferences when assigning the unit to the extent possible, considering the FRSP inventory and the housing market. Participants may also find a unit of their choice, as long as such unit passes a housing inspection required by the FRSP and does not exceed the Rent Reasonableness Standard.
- 7805.3 To facilitate timely unit identification and entry into the FRSP, the eligible applicant shall:
 - (a) Select a unit from the FRSP unit inventory list or identify a unit that meets the Rent Reasonableness Standard; and
 - (b) Make a reasonable effort to meet with the Program's representative in a timely manner to view a unit, if applicable. For purposes of this subsection, refusal to meet with the Provider's representative three (3) times without good cause shall be considered not making a reasonable effort.
- 7805.4 FRSP assistance shall be provided only for housing units located within the District of Columbia, unless otherwise approved by the FRS Program. Any unit constructed before 1978 in which a child under the age of six (6) will be residing must comply with section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4822, and implementing regulations, 24 C.F.R. part 35, subparts A, B, M, and R.
- 7805.5 A FRSP provider may not approve or issue a FRSP benefit for a housing unit that is owned by the FRSP provider, its parent, subsidiary, or an affiliated organization of the FRSP Provider.

7806 RE-HOUSING AND STABILIZATION ASSISTANCE

- 7806.1 FRSP rental assistance is solely for the purpose of assisting eligible households to quickly achieve housing stability by assisting them to obtain and remain in a new rental unit.

- 7806.2 FRSP assistance shall be “needs-based,” meaning that the assistance provided shall be the minimum amount, as determined by the Provider, needed to re-house the FRSP applicant or participant and prevent them from returning to homelessness in the near term.
- 7806.3 The Program shall not be obligated to provide a monetary amount for a requested service if a less costly alternative is available.
- 7806.4 FRSP assistance may consist of a security deposit, move-in assistance, time-limited rental subsidy, and utility assistance, in accordance with the family’s approved budget plan.
- 7806.5 The Program may pay up to one hundred percent (100%) of a security deposit. The maximum FRSP payment for a security deposit shall be the actual amount of the deposit, which may not exceed the cost of one (1) month’s unsubsidized rent and must meet the Rent Reasonableness Standard, up to two thousand two hundred dollars (\$2,200), except that the maximum security deposit may be higher, as determined by the circumstances and within reason, for purposes of providing a reasonable modification based on disability or large family size.
- 7806.6 The initial rental assistance benefit shall not exceed the equivalent of rental costs accrued over a period of four (4) months.
- 7806.7 During the initial four (4) month period of rental assistance, each household shall contribute toward the cost of housing no less than forty percent (40%) of their adjusted annual income, determined in accordance with the District of Columbia Housing Choice Voucher Program (HCVP) regulations found at 14 DCMR § 6200 (household contribution). For this period, FRSP rental assistance shall be the difference between the cost of housing and the household contribution. For purposes of this section, the cost of housing shall include the cost of utilities, as determined in accordance with the HCVP regulations found at 14 DCMR § 6200.
- 7806.8 Households requesting additional assistance pursuant to § 7803.3 will be expected to pay an increasing share of the rental payment as part of demonstrating their capacity to meet the FRSP housing stability requirement at the end of any additional rental assistance.
- 7806.9 Receipt of FRSP assistance is conditioned on the applicant household:
- (a) Accepting a unit that meets the Rent Reasonableness Standard and passes the FRSP housing inspection;
 - (b) Submitting a timely and complete application to the landlord for the selected and approved unit;
 - (c) Entering into a lease and complying with the terms of the lease;

- (d) Signing the FRSP Notice of Rental Subsidy Terms and Conditions form;
- (e) Timely payment of the FRSP participant's share of the monthly rent, in accordance with § 7806.7 and the FRSP participant's lease;
- (f) Complying with the FRSP case management requirements set out in the Department-approved Program Rules, and, as applicable, in accordance with the family's TANF Individual Responsibility Plan; and
- (g) Applying for all applicable public benefits and housing assistance for which the applicant is eligible, including applying for housing assistance from the DCHA, if applicable.

7806.10 Households receiving rental assistance shall be required to report to the Provider written notice of any change in the household's monthly income as soon as the change occurs.

7806.11 Upon written notification by the household of a change in the household's monthly income, the FRSP Provider shall determine if there is a need to recalculate the amount of the household's housing cost contribution, based on the following:

- (a) If the household is reporting a decrease in monthly income of fifty dollars (\$50.00) or more, the Provider shall recalculate the household's contribution. In addition, a household reporting a decrease in monthly income of less than fifty dollars \$50.00 may request that a recalculation be conducted;
- (b) If the recalculation pursuant to paragraph (a) of this subsection results in an increase in the amount of FRSP rental assistance, the change shall be effective the first day of the month (or the next day that rent is due) following completion of the calculation. The recalculation shall be completed within five (5) business days of receipt of written notice by the household of the decrease in household income and any documentation necessary for the Provider's recalculation;
- (c) If the household is reporting an increase in monthly income of one hundred dollars (\$100.00) or more, a Provider shall conduct a recalculation;
- (d) If the recalculation pursuant to paragraph (c) of this subsection results in a decrease in the amount of FRSP rental assistance, the change shall be effective the first of the month (or on the day that rent is next due, if different than the first of the month) following the month in which notice of the change in accordance with § 7806.12 is provided to the household,

except that if the next day rent is due is less than fifteen (15) calendar days from the date the notice is either hand delivered or postmarked, the change in the FRSP rental assistance shall be effective the second month (or the second date upon which rent is due) following the month in which notice of the change made in accordance with § 7806.12 is provided to the household; and

- (e) Notice of a change in assistance pursuant to this section shall be made in accordance with § 7806.12.

7806.12

When a Provider calculates a change in FRSP rental assistance pursuant to a recertification under § 7803.2 or as a result of a reported change in income pursuant to § 7808.10, the Provider shall give to the participant household a Notice of Change in FRSP Rental Assistance. This notice shall include:

- (a) A clear statement of the factual basis for the change in rental assistance;
- (b) A reference to the regulation or policy pursuant to which the change was made;
- (c) A clear and detailed statement of the household's current FRSP rental assistance and the household's current share of the housing costs;
- (d) A clear and detailed computation of the new amount of FRSP rental assistance and the new amount of the household's share of the housing costs;
- (e) The effective date of the new amount of rental assistance in accordance with § 7806.11(b) or § 7806.11(d), whichever is applicable; and
- (f) A clear and complete statement of the client's right to a reconsideration of the recalculation by the Department or the Department's designee, if such reconsideration is requested within ten (10) calendar days of receipt of the Notice. A reconsideration shall be completed with five (5) business days of receipt by the designated reviewer of the household's request for a reconsideration. The five (5) business day timeframe may be tolled if the reviewer has requested documentation necessary to the review, and receipt of such documentation is pending and not within the control of the reviewer.

7806.13

Notice required by § 7806.12 shall be either hand-delivered to an adult member of the applicant household or mailed to the household by first class mail within twenty-four (24) hours of the Provider's calculation of the change in the household's rental assistance share. The date from which the timeliness of the notice is measured is either the date of hand delivery or, if mailed, the date the notice is postmarked.

7806.14 The FRSP rental assistance that may be issued shall not exceed two thousand two hundred dollars (\$2,200) per month for families, except that the maximum rental assistance may be higher, as determined by the circumstances and within reason, for purposes of providing a reasonable modification based on disability or large family size.

7806.15 Only in the rare circumstance where payment is required by a vendor or a controlling government authority, including but not limited to a court or federal marshal, may the benefit payment be made in the form of cash. In all other cases, all FRSP assistance payments shall be in the form of non-cash direct vendor payments.

7806.16 FRSP benefits not utilized within sixty (60) days after approval may be forfeited, absent a showing that the applicant or recipient has made reasonable efforts to use the assistance or good cause as to why the applicant or recipient could not expend the benefits.

7807 TERMINATION OF FAMILY RE-HOUSING AND STABILIZATION ASSISTANCE

7807.1 A Provider may terminate payment of a FRSP security deposit or rental subsidy, if a member of the household:

- (a) Possesses a weapon illegally in the unit subsidized by the FRSP;
- (b) Possesses or sells illegal drugs in the unit subsidized by the FRSP;
- (c) Assaults or batters any person in the unit subsidized by the FRSP;
- (d) Endangers the safety of any member of the household or the safety of FRSP or Department staff;
- (e) Intentionally or maliciously vandalizes or destroys the unit subsidized by the FRSP, or steals the property of any person in the FRSP;
- (f) Fails to accept an offer of appropriate permanent housing or supportive housing that better serves the household's needs after being offered two (2) appropriate permanent or supportive housing opportunities. For purposes of this paragraph, two (2) appropriate permanent housing opportunities shall include two (2) offers of any kind of public housing offered through DCHA or other similar program or entity; or
- (g) Knowingly engages in repeated violations of FRSP Program Rules; and

- (h) In the case of terminations pursuant to paragraphs (f) and (g) of this section, the Provider must have made reasonable efforts to help the client overcome obstacles to obtaining permanent housing.

7807.2 The Program shall give written and oral notice to a FRSP participating household of their termination from services at least thirty (30) days before the effective date of the termination, unless such termination is an emergency termination pursuant to D.C. Official Code § 4-754.38 (2008 Repl.). For purposes of an emergency termination pursuant to D.C. Official Code § 4-754.38, “provider’s premises” shall be interpreted to mean the unit subsidized by the FRSP.

7807.3 The Program’s written notice to a FRSP participating household of its termination shall include:

- (a) A clear statement of the effective date of the termination;
- (b) A clear and detailed statement of the factual basis for the termination, including the date or dates on which the basis or bases for the termination occurred;
- (c) A reference to the statute, regulation, or Program Rule pursuant to which the termination is being implemented;
- (d) A clear and complete statement of the client’s right to appeal the termination through a fair hearing and administrative review, including deadlines for instituting the appeal; and
- (e) A statement of the client’s right to continuation of FRSP services pending the outcome of any fair hearing requested within fifteen (15) days of receipt of written notice of a termination.

7807.4 Termination pursuant to this section refers to a termination of the Program security deposit or rental subsidy only and does not provide FRSP with any authority that interferes with a client’s tenancy rights under an agreement governed by Title 14 of the District of Columbia Municipal Regulations.

7807.5 For purposes of this section, the requirement set forth in D.C. Official Code § 4-754.36 (2008 Repl.), which requires a provider to first consider suspending the client in accordance with D.C. Official Code § 4-754.35 or to have made a reasonable effort, in light of the severity of the act or acts leading to the termination, to transfer the client in accordance with D.C. Official Code § 4-754.34, shall be interpreted to mean that the provider shall have made a reasonable effort to provide the FRSP household with a transfer to another case manager, as a means of assisting the household to meet their budget plan and comply with the FRSP approved Program Rules, prior to taking steps to terminate FRSP benefits, if appropriate under the circumstances, and if there is reason to

believe that the FRSP could have foreseen that such a transfer could have been of assistance to the household in complying with the FRSP requirements.

7807.6 FRSP rental assistance shall end, but shall not be determined to be a termination of assistance subject to a fair hearing pursuant to section 7808, thirty (30) days from the date the FRS Program determines a recipient household:

- (a) Has an adjusted gross annual household income that meets or exceeds fifty percent (50%) of the Area Median Income; or
- (b) Is able to pay one hundred percent (100%) of their monthly rent amount with fifty percent (50%) or less of the household's adjusted gross monthly income.

7808 FAIR HEARING AND ADMINISTRATIVE REVIEW

7808.1 An applicant or participating FRSP household shall have ninety (90) calendar days following the receipt of a notice described in §§ 7803.7, 7803.8, or 7807.3 to request a fair hearing, in accordance with the hearing provisions of D.C. Official Code § 4-774.41, for the action that is the subject of the notice.

7808.2 Upon receipt of a fair hearing request, the Department shall offer the appellant or his or her authorized representative an opportunity for an administrative review in accordance with D.C. Official Code § 4-754.42 (2012 Supp.), except that if an eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal in time to resolve the housing emergency and prevent the eviction.

7899 DEFINITIONS

The following terms shall have the meaning ascribed:

Area Median Income – the midpoint in the family income range for a metropolitan statistical area or county, as determined annually by the U.S. Department of Housing and Urban Development.

Authorized representative – an individual who is at least eighteen (18) years of age, who is acting responsibly on behalf of the applicant, and has sufficient knowledge of the circumstances of the applicant to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

Department – the District of Columbia Department of Human Services or its designated agent.

Family – either of the following:

- (a) A group of individuals with at least one (1) minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit. For the purposes of this definition, the term “dependent child” shall mean a minor or adult child, if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration that substantially impedes his or her ability to live independently;
- (b) A pregnant woman in her third trimester;
- (c) Minor children of the applicant adult, regardless of previous living arrangements, as long as the applicant presently intends to have the children join and remain together as a family unit; or
- (d) The partner or significant other of the applicant adult, regardless of previous living arrangements, as long as he or she intends to join and remain together as a family unit, and the individuals otherwise meet the definition of family in paragraph (a) or (b).

Housing stability – the ability to pay housing costs, including rent and utilities, necessary to retain housing without FRSP assistance.

Individual Responsibility Plan – the self-sufficiency plan that the FSRP participant has entered into with the shelter, housing, TANF, or other service provider that sets out the steps and goals necessary for the participant to achieve greater housing and economic self-sufficiency.

Minor child – a child, including those by adoption, eighteen (18) years of age or younger.

Provider – an organization that receives Family Re-Housing and Stabilization funds and is authorized to administer and deliver Family Re-Housing and Stabilization services.

Rent Reasonableness Standard – Rent reasonableness, as defined by the United States Department of Housing and Urban Development to mean that the total rent charged for a unit must be reasonable in relation to the rents being charged during the same time period for comparable units in the private unassisted market and must not be in excess of rents being charged by the owner during the same time period for comparable non-luxury unassisted units.

Rental payment – a regular payment made by a tenant to an owner or landlord for the right to occupy or use property.

Security deposit – a sum of money paid in advance that is required by the owner or landlord for leasing property as security against the tenant’s failure to fulfill the lease or security to cover damage to the rental premises.

Vendor – a provider of a service or product, including but not limited to landlords.

All persons who desire to comment on these proposed rules should submit their comments in writing to David A. Berns, Director, Department of Human Services, 64 New York Avenue, N.E., Washington, D.C. 20002, **Attn:** Mr. Fred Swan, Administrator, Family Services Administration. All comments must be received by the Department of Human Services not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of these rules and related information may be obtained by writing to the above address, or by calling the Department of Human Services at (202) 671-4200.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division



MEMORANDUM


TO: Lolita S. Alston
Director
Office of Legislative Support

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: July 16, 2012

SUBJECT: Legal Sufficiency Review of Proposed Resolution, the "Family Re-Housing and Stabilization Program Regulations Approval Resolution of 2012"
(AR-12-456 B)

This is to Certify that this Office has reviewed the above-referenced proposed resolution and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins