Commonwealth of Massachusetts
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Charles D. Baker, Governor ◆ Karyn E. Polito, Lt. Governor ◆ Janelle L. Chan, Undersecretary

Public Housing Notice 2019-06

To: Local Housing Authority Executive Director

From: Amy Stitely, Director, Associate Director, Division of Public Housing

Subject: LHAs Performing Biennial Rent-Re-Determinations for Chapter 667 Elderly Housing: Clarification Regarding Implementation of Cost Of Living Adjustment (COLA) Increase – **Required Refund of Rent**

Date: March 27, 2019

IF YOUR HOUSING AUTHORITY HAS BEEN GRANTED A WAIVER TO STATE REGULATION 760 CMR 6.04(4) AND YOU HAVE BEEN IMPLEMENTING BIENNIAL RENT RE-DETERMINATIONS FOR C.667 TENANTS, PLEASE READ THIS PUBLIC HOUSING NOTICE (PHN) CAREFULLY.

As you may be aware, the Department of Housing and Community Development (DHCD) has granted, upon request, a waiver to the state regulation, 760 CMR 6.04(4), that allows local housing authorities (LHAs) to re-determine the income and family composition of tenant households living in chapter 667 elderly/handicapped housing, every other year. This is referred to as biennial rent re-determinations.

The rationale for this decision includes administrative efficiencies, consideration of time, manpower and expense borne by a small authority in completing rent re-determinations. The income of the elderly/disabled population is generally not subject to tremendous changes from year to year, so an alternate year calculation is feasible.

CORRECT IMPLEMENTATION OF THE COST OF LIVING ADJUSTMENT (COLA) INCREASE

The way this increase works is that **the percentage increase of the Cost of Living Adjustment (COLA) allowed by the U.S. Social Security Administration is added to the tenant's social security income only**, then the rent is re-calculated with any other source of income remaining the same. These expected increases are usually done on the "off year." (The "off year" is the year that the COLA increase is applied to U.S. Social Security Administration benefits/income, **only**.) This is to prevent total loss of any rent revenue that would normally be gained by the housing authority.

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Please be advised that for purposes of this process, U.S. Social Security Administration **social security income** includes the following **gross benefits**:

- Social Security (SS)
- Supplemental Security Income (SSI)
- Supplemental Disability Insurance (SDI)
- State Supplement Plan (SSP), which is the Massachusetts State equivalent of SSI

Going forward, LHAs conducting biennial rent re-determinations, **must** use **Attachment A**, the revised tenant rent letter for biennial rent re-determinations.

INCORRECT IMPLEMENTATION OF THE COST OF LIVING ADJUSTMENT (COLA) INCREASE

It has come to our attention that some LHAs have implemented the biennial rent re-determination incorrectly by **increasing the tenant's total income or all sources of income by the same percentage amount as the social security COLA increase for that year, resulting in a higher rent.** This error could have been made due to a manual calculation process; or at some LHAs, this error was due to the software program utilized to calculate tenant rents.

REQUIRED CORRECTION & REQUIRED REFUND OF TENANT RENT

In order to correct any miscalculation of rent due to the incorrect implementation of the biennial rent re-determination process, DHCD is hereby requiring all LHAs who have conducted biennial rent re-determinations, to take the following steps for all of their **current** chapter 667 tenants, for each year the LHA used the biennial rent re-determination process, as described below.

Manual Rent Re-Determination Process

1. Review rent roll for all **current** chapter 667 tenants, for any "off years" that the biennial rent re-determination was conducted.
2. Review manual rent calculation process to determine if the COLA increase was **only** applied to the tenant's social security benefits for "off years,"
    a. If yes, then no need to re-calculate tenant rents or issue a rent refund to tenants,
    b. If no, then re-calculate every tenant's rent, by:
        i. Applying the COLA in that year to the tenant's social security income only
        ii. Re-calculate tenant rent, and
        iii. Calculate tenant refund for each month of each year for the "off years."
3. If a tenant is entitled to a refund, the LHA may offer the refund in the form of a check payable to the tenant or a credit to the tenant's rental account/ledger.
4. Send written notice to the tenant informing them of the rent refund, offering either a check payable to the tenant or a credit to the tenant's rental account/ledger, with a written acknowledgement as to how the tenant agrees to receive the rent refund. (See, **Attachment B**, Sample Notice of Rent Refund Letter). ***Note: If the tenant requests a refund in the form of a check the LHA must issue a check, not a credit to the tenant's rental account/ledger.***
5. Make all necessary adjustments to tenant's rental account/ledger.

Computerized Rent Re-determination Process

DHCD worked with three software vendors who provide tenant management software programs to LHAs:

- PHA Network
- PHA Web
- PHA HAB

In working with these vendors, **DHCD learned that these systems were incorrectly applying the COLA to all sources of income. Through discussions with the vendors, we identified that only thirty-two (32) LHAs** used these vendor software programs to conduct biennial rent re-determinations, and therefore must correct this problem and refund rents to their tenants.

If you have one of the three software vendors listed above and we have identified that you were one of the thirty-two (32) LHAs, we will reach out to you in a separate email from Joyce Taylor, DHCD Housing Program Coordinator, with further instructions. If you use one of the three vendors above and do not receive an email from us, no action is needed on your part.

If your LHA uses another type of software program for tenant management, please contact your vendor immediately to identify whether you were impacted by this error. Then follow the instructions given earlier under "Manual Rent Re-Determination Process" to correct the problem. Also, you must email Joyce Taylor at Joyce.M.Taylor@Mass.Gov to alert DHCD of the situation and to provide the information below.

- Beginning date and end date of the miscalculated tenant rents
- Timeline and deadline to re-calculate rents and refund any payments due to tenants
- Date LHA completed process and refunded rents

If you require any technical assistance to resolve this issue, please let Joyce know and she will forward your request to the appropriate DHCD staff person for response.

If you have any questions or concerns regarding the biennial rent re-determination process please contact Laura Taylor, Director for the Bureau of Housing Management at Laura.Taylor@Mass.Gov or (617) 573-1289.