



Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lieutenant Governor ♦ Jennifer D. Maddox, Undersecretary

PHN 2020-21A

To: All Executive Directors  
From: Ben Stone, Associate Director, Division of Public Housing  
RE: Rent Policy During COVID-19 Emergency  
Date: May 11, 2020

This notice supersedes PHN 2020-21, issued on April 30, which is now void. This notice addresses concerns raised by stakeholders regarding implementation difficulties.

This guidance informs Local Housing Authorities (LHAs) and tenants of state-aided public housing about their obligations regarding rent payments and how rent will be calculated during the COVID-19 pandemic following passage of [Chapter 65 of the Acts of 2020](#), *An Act providing for a moratorium on evictions and foreclosures during the COVID-19 Emergency (referred to below as the “eviction moratorium”)*.

## 1. Summary

- a. Public Housing tenants must still pay rent.
- b. DHCD is instituting a “rent cap”, previously referred to as “upward rent freeze”. For those tenants whose household income has increased due to unemployment insurance (UI) or earned income, including but not limited to earned income due to new employment or new household members since March 1, rent will be capped at the amount of their March rent for June and July. This applies only to increased income due to earned income or unemployment insurance, **including** the temporary enhanced \$600/week unemployment benefit sometimes referred to as Federal Pandemic Unemployment Compensation (“FPUC”) under the CARES Act. Those whose income has fallen for any reason will have rent charged as usual based on their actual income and deductions.
- c. LHAs do not need to make any adjustments to April or May rent UNLESS:
  - i. The LHA chose to include one or more full \$600/week FPUC benefits actually received in April or May in income for purposes of April or May rent calculation; **OR**
  - ii. A tenant household member receives a retroactive lump sum payment after this notice for UI (regular and/or FPUC) accrued in April and/or May.
- d. The \$1200 per individual and \$500 per child one-time federal stimulus payments are **excluded** from income for the purposes of the rent calculation and eligibility.
- e. Interim redeterminations will continue to be conducted but will be governed by this policy for calculation of June and July rent.

## 2. Obligation to Continue to Pay Rent

Despite the eviction moratorium, public housing tenants **are still required to continue to pay their rent in accordance with this notice**. Please see [Executive Office of Housing & Economic Development \(HED\) website](#) on tenant and landlord rights under the eviction moratorium. Additionally, DHCD is waiving the regulation (see Attachment A) requiring late fees and interest on late rent during this period and tenants should not be charged late fees and interest on late rent during the eviction moratorium.

Similarly, for the purposes of minimum rent charges, DHCD considers the circumstances of the COVID-19 pandemic to be a severe financial hardship for tenants with nominal or no income. LHAs, therefore, shall not require that a tenant demonstrate any other financial hardship in order to be exempt from the minimum rent charge set out in c. 121B, §32, 760 CMR 6.04(1)(e) and the lease.

LHAs may send arrearage notices to tenants; when doing so they must include the language below, prominently displayed on the first page:

*“THIS IS NOT A NOTICE TO QUIT. YOU ARE NOT BEING EVICTED, AND YOU DO NOT HAVE TO LEAVE YOUR HOME. An emergency law temporarily protects tenants from eviction during the COVID-19 emergency. The purpose of this notice is to make sure you understand the amount of rent you owe to the Housing Authority as your landlord.”*

*“For information about resources that may help you pay your rent, you can contact your regional Housing Consumer Education Center. For a list of agencies, see <https://www.masshousinginfo.org/regional-agencies>. Additional information about resources for tenants is available at <https://www.mhp.net/news/2020/resources-for-tenants-during-covid-19-pandemic>.”*

### **3. Enhanced Unemployment Benefit/(FPUC), Earned Income and “Rent Cap”**

Individuals who have lost their jobs are eligible for the Federal Pandemic Unemployment Compensation (FPUC) benefit of [\\$600/week under the CARES Act](#) in addition to the unemployment benefit that the Department of Unemployment Assistance typically provides most workers under state law. This enhanced federal unemployment benefit lasts from March 29 or when an individual lost their job, whichever is later, through July 31. The enhanced benefit alongside traditional unemployment insurance will exceed pre-pandemic working income for the majority of households in state-aided public housing where a household member has lost their job.

At the same time, certain households where members are employed in essential industries such as health care and grocery may have seen increased income due to increased hours and/or hazard pay, and all those employed are exposed to a relatively greater risk of COVID-19 while continuing to work.

In recognition of the hardship experienced by both working and recently unemployed households during the current state of emergency, DHCD is imposing a Rent Cap (previously referred to as an “Upward Rent Freeze”) for those households as follows:

LHAs should charge rent for June and July applying a “rent cap” for households whose incomes have increased due to either earned income or UI/FPUC income:

- If June rent as calculated normally (including all UI/FPUC\*) is higher than March 1 rent, cap June and July rent at the March 1 level.
- If June rent as calculated normally (including all UI/FPUC\*) is lower than March 1 rent, charge the rent as calculated.

\*In the case of lump sum, retroactive UI & FPUC payments, the LHA will have to assign the benefit to the weeks accrued. If accrued in April and May, the FPUC should be excluded from income; if accrued in June and July, the LHA should apply the above rent cap policy. See 760 CMR 6.04(9).

This cap applies to all earned income and UI/FPUC for June and July, including from new household members or those who have gotten new jobs since the March rent calculation. Other changes in household income, such as Cost of Living Adjustments (COLA), are calculated normally.

LHAs may incorporate increases in earned or FPUC income above the rent cap, including income from new household members or from new jobs, in rent calculations for rent starting in August.

Any household with earned income or UI (including FPUC) whose **monthly income has increased above the income used to calculate March rent**, due to FPUC benefit or increased work income, **will have their rent for June and July set at their March rent**. While DHCD will reevaluate this policy based on further federal legislation and funding availability, absent further notice this policy will end on July 31, 2020. At that point, LHAs should expect to charge rent for August based on their households' actual current income, if any, at that time.

Any household whose **monthly income has decreased below the income used to calculate March rent** is still entitled to request an interim income determination at any time to calculate a **lower rent**.

LHAs may choose how to implement this policy so as to cause the least administrative burden, provided that changes to rent based on earned and UI/FPUC income follow the March rent cap policy. This can include changing rent charged for June and July to comply with this policy or calculating rent normally and providing a rent credit to bring total charged rent down to the March 1 level where increased income would otherwise cause rent to exceed the cap.

**NOTE:** When calculating income for purposes of **ELIGIBILITY** to apply for or remain in state-aided public housing, LHAs should **EXCLUDE** the FPUC benefit entirely.

**NOTE:** Except for two exceptions noted below, LHAs should not make retroactive changes to April or May rent.

#### 4. Special Exceptions for Retroactive Adjustments

- a. LHA had included \$600/week FPUC in Rent: Before DHCD announced its rent cap policy, many LHAs excluded the \$600/week FPUC benefit in calculating April and May rent, based on what they knew of HUD's policy with respect to federally-assisted housing. For the sake of fairness, where an LHA calculated income, including the full \$600/week FPUC benefit for April and/or May, the LHA should provide a rent credit for the amount of rent charged on the basis of that enhanced benefit.
- b. Lump Sum Unemployment Payments: Where a household receives unemployment benefits, including FPUC, after this Notice as a lump sum retroactive to the date of their actual job loss in March, April, or May, LHAs should assign this lump sum income back to the month in which it was actually accrued. For unemployment income accrued in April or May, LHAs should *exclude* the enhanced UI benefit from income when calculating rent. For UI income accrued for June and July, LHAs should apply the March rent cap policy.

For example, if the tenant who lost their job on May 15 receives a check for 4 weeks of UI and FPUC on June 15, the 2 weeks of FPUC accrued in May should be excluded from income calculations. The LHA should apply the March rent cap to the 2 weeks of FPUC accrued in June

This calculation will ensure residents unemployed at the same time will have rent calculated similarly, regardless of when they received the UI benefit.

- c. No other retroactive adjustments are required under this policy.

## 5. Federal Stimulus Payments

The one-time stimulus payments of \$1,200 per qualifying adult and \$500 per qualifying child are **EXCLUDED** from income for purposes of rent calculation and eligibility for public housing. Residents do not need to report his income to LHAs. (see [760 CMR 6.05\(3\)\(a\)](#))

## 6. Interim Redeterminations

Residents may request an interim redetermination at any time to reflect lower incomes.

Residents are still obligated to report an increase of monthly income greater than 10%. For example, if a household had claimed zero income due to job loss in April and is now receiving enhanced unemployment benefits, rent for June and July will be recalculated based on the increased income, but capped at the March rent.

LHAs must notify residents of increases to their rent in writing at least 14 days before the effective date of the rent change, which is the first of the month; Tenants must receive notice of the rent change no later than May 18 for rents effective June 1.

Attachment A: *Regulatory Waiver of late fees and interest*

Attachment B: *Regulatory Waiver of income determination provisions*