

760 CMR 49.00: MASSACHUSETTS RENTAL VOUCHER PROGRAM

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49.01: Application

Waivers to 760 CMR 49.00 in effect at an administering agency immediately prior to July 14, 2017 shall remain in effect unless and until revoked by the Department.

760 CMR 49.00 is applicable to all persons applying for or participating in the Massachusetts Rental Voucher Program (MRVP) pursuant to St. 1992, c. 133, § 21.

49.02: Definitions

Administering Agency. A Local Housing Authority (LHA), a public body politic and corporate created pursuant to M.G.L. c. 121B, § 3 or similar provisions of earlier general laws or of special laws, or a Regional Administering Agency (RAA), a regional non-profit corporation or other entity, under contract with the Department to administer the MRVP.

Appropriate Unit Size. The size of a unit is appropriate for a household if the unit meets all the following criteria:

- (a) Household members of the opposite sex, excepting husband and wife (or those in a similar living arrangement), do not have to share a bedroom, provided that children of the opposite sex younger than eight years old shall share a bedroom and provided that other household members of the opposite sex may elect to share a bedroom.
- (b) Persons of the same sex shall share a bedroom, provided that a household member, 21 years of age or older, may elect not to share a bedroom with his or her child, grandchild, or legal ward and provided that a household member does not have to share a bedroom if a consequence of sharing is or would be a severe adverse impact on his or her mental or physical health and if the administering agency receives reliable medical documentation as to such impact of sharing.
- (c) Each bedroom shall contain at least 50 square feet of floor space for each occupant and a minimum of 70 square feet and shall meet all other applicable requirements of 105 CMR 410.00 *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* for a room occupied for sleeping purposes. No bedroom shall be shared by more persons than the number permissible under Appropriate Unit Size.
- (d) In calculating the appropriate unit size, only bedrooms may be considered available to be used for sleeping purposes by household members; the kitchen, bathroom and hallways shall not be deemed available for sleeping purposes by any household member.

Contract Rent. The total monthly rent specified in the lease and Voucher Payment Contract for a contract unit occupied by a participant. The contract rent includes the amount of the voucher payment paid by the administering agency and the amount of the participant's share of rent determined in accordance with 760 CMR 49.05. Contract rent does not include payments made by the participant separately to utility providers for the cost of heat, cooking fuel, and/or electricity.

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Contract Unit. A unit occupied by a participant for which the participant submits a Request for Program Payment, enters into a lease with the owner, and for which the owner and the administering agency sign a Voucher Payment Contract.

Department. The Massachusetts Department of Housing and Community Development or successor agency.

Full-time Student. A household member between 18 and 25 years of age, who is the dependent of another household member and who is enrolled in and attending an accredited educational or vocational institution and is carrying a course load that is considered full-time for students under the standards and practices of the institution. Full-time student status shall remain in effect as long as the individual carries a full-time student course load in pursuit of a bachelor's degree, an associate's degree, a master's degree, or a diploma from an accredited educational institution or a certificate from an accredited vocational program (excluding apprenticeship programs).

Grievant. Any participant who files a written grievance with an administering agency in accordance with the administering agency's grievance procedure. A grievant shall also include any person about whom the administering agency holds data (data subject) who also pursues an appeal pursuant to 760 CMR 8.00: *Privacy and Confidentiality*.

Guest. A person temporarily staying in the MRVP contract unit with the consent of a member of the household who has the express or implied authority to so consent. The stay of any one guest sleeping in the MRVP contract unit shall be limited to no more than a total of 30 calendar days during any 12 month period unless the administering agency for good cause otherwise consents to a longer period in writing prior to the expiration of 30 calendar days or such longer period as may have been authorized. Children who are subject to a joint custody arrangement or for whom a family has visitation privileges that are not included as a family because they live outside of the assisted household more than 50% of the time, are not subject to the time limitations of a guest as described elsewhere in 760 CMR 49.00.

Head of Household. The adult member of the household who is considered to be the head of household for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the household fulfills all of its responsibilities under MRVP. The household may designate any qualified household member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. If the head of household is a student, he or she shall not be considered a full-time student pursuant to Head of Household for purposes of calculating exclusions from household income under 760 CMR 49.05.

Hearing Officer. An impartial person who conducts hearings on grievances (grievance hearings) in accordance with the grievance procedure and renders written decisions based on the material facts and applicable law.

Hearing Panel. A group of impartial persons who conduct hearings on grievances (grievance hearings) in accordance with the grievance procedure and render written decisions based on the material facts and applicable law.

Homeless Applicant. An applicant who:

- (a) is without a place to live or is in a living situation in which there is a significant, immediate and direct threat to the life or safety of the applicant or a household member which situation would be alleviated by placement in a unit of appropriate unit size;
- (b) has made reasonable efforts to locate alternative housing;
- (c) has not caused or substantially contributed to the safety threatening or life threatening situation; and
- (d) has pursued available ways to prevent or avoid the safety threatening or life threatening situation by seeking assistance through the courts or appropriate administrative or enforcement agencies; and
- (e) has been or is about to be displaced from a primary residence; or
- (f) otherwise meets the definition of homelessness under any legislative language directly governing the Department's administration of the MRVP.

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Household (Family). A household or family consists of:

- (a) two or more persons who live or will live regularly in a unit as their only residence whose income and resources are available to meet the household's needs; or
- (b) one person.

A temporarily absent family member shall be deemed to be a household member. The Department may issue guidance with regard to temporarily absent family members. A child who is subject to a joint custody arrangement and resides in the unit more than 50% of the time shall be deemed a household member.

A full-time, live-in Personal Care Attendant, as defined in 760 CMR 49.02: Personal Care Attendant (PCA), whether or not a household member for purposes of rent determination, if determined by the administering agency to be qualified, shall be deemed a household member for purposes of determining the appropriate voucher size and be granted one additional bedroom.

Housing Quality Standards (HQS). The housing quality standards established by HUD for purposes of determining eligibility of a housing unit for assistance under the Federal Housing Choice Voucher Program.

HUD. The United States Department of Housing and Urban Development (HUD).

Income Limit. Initially, 50% of the area median income, subject to change from year to year in accordance with the then-current MRVP budget line item. In each fiscal year, the Department will notify the Administering Agencies through written guidance of the income eligibility for that year.

Local Resident. A person who has a sole residence or has a place of employment or has a child meeting the definition of household member and is enrolled in school in a city or town at the time of application to a LHA in that city or town and at the time of final determination of eligibility and qualification. Temporary residence with relatives or friends in the city or town is not sufficient unless the person's last residence and domicile was in the city or town. In the case of an applicant determined by the LHA to be homeless, the applicant may select one community for local preference, either the community from which he or she was displaced through no fault of his or her own, or the community in which he or she is temporarily housed. In the event that the applicant is employed in more than one city or town, the applicant may select one community for local preference on the basis of employment.

Mobile Voucher. A voucher issued to an applicant or participant for use in any suitable unit.

MRVP Budget Line Item. Massachusetts Budget Line Item: 7004-9024 or any other line item in the Commonwealth of Massachusetts annual budget governing administration of the MRVP. Substantive provisions of the language of the MRVP budget line item shall take precedence over any contrary provisions of 760 CMR 49.00 or any administrative guidance issued by the Department with respect to the fiscal year covered by the applicable MRVP budget line item language.

Owner. A person (including a corporation or other entity) who has legal title to property. An owner may designate an agent to act on its behalf with respect to management and rental of a contract unit, including execution of a Voucher Payment Contract on the owner's behalf, collection of voucher payments and tenant-paid rent, and lease enforcement, but the owner shall remain responsible for its obligations as owner under the Voucher Payment Contract and the MRVP.

Participant. One or more persons who have been determined eligible for MRVP and have been issued a voucher.

Personal Care Attendant (PCA). A person who resides with a household member with a disability and who:

- (a) provides necessary assistance in activities of daily living to such household member insofar as he or she requires such assistance on account of his or her disability;

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- (b) is not obligated for support of the household member;
- (c) is paid for the fair value of such assistance; and
- (d) would not be residing in the unit except to provide such necessary assistance to the household member.

Project Based Units. Units which are authorized by the Department to receive rental assistance that is attached to the unit (or project) and not to the person who occupies the unit. When the unit is vacated, the rental assistance remains with the unit (or project).

Project Based Voucher. A voucher attached to a contract unit in a particular housing development, and not to the participant occupying the contract unit, which terminates (as to a particular participant) at the time the participant vacates the contract unit.

Project Based Waiting List. The applicant list which the administering agency or project owner has established, with prior Department approval, for the purpose of offering units specifically funded by project based subsidy.

Request for Program Payment. As defined in 760 CMR 49.09.

Single Room Occupancy (SRO) Eligible Property. A rooming, lodging or boarding house, hotel, inn or private residence which is:

- (a) Licensed for such operation by the appropriate authority; and
- (b) Certified by the appropriate agency as in compliance with applicable Building, Sanitary and Fire Codes, including without limitation 105 CMR 410.100: *Kitchen Facilities*.

A student dormitory, residence of a religious order, facility providing continuous psychiatric, medical, or nursing services, or private club shall not constitute an SRO Eligible Property.

Single Room Occupancy (SRO) Unit. A room intended for occupancy by a single individual in an SRO Eligible Property.

Suitable Unit. A dwelling unit for which a Voucher Payment Contract is to be executed. The unit must:

- (a) be intended solely for occupancy by the participant and as the participant's sole residence;
- (b) be of an appropriate unit size for the participant household;
- (c) comply with 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* (including lead paint laws, whenever the household includes a child younger than six years old), 780 CMR: *State Building Code* and other applicable laws;
- (d) Contain, or if an SRO Unit, have access to, kitchen facilities as defined in 105 CMR 410.100: *Kitchen Facilities*. Kitchen facilities must include, or have space and proper facilities for the installation of, a refrigerator that is at least 7.5 cubic feet with a separate freezer compartment, conventional oven that is non-portable and must be installed, and cooktop with at least two burners;
- (e) if a single room, meet the definition of 760 CMR 49.02: Single Room Occupancy (SRO) Unit.

Subsidized Housing Program. Any housing in which the tenant rent share is adjusted based on income.

Utilities. Any or all of the following: Electricity and any other fuels for heat, hot water, and cooking.

Veteran. A person who is a veteran as defined in M.G.L. c. 14, § 7 clause forty-three.

Voucher. A contract document between the administering agency and a participant which certifies program eligibility and sets forth program requirements, guidelines and benefits for applicants who have been determined eligible for assistance pursuant to 760 CMR.

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Voucher Payment. An amount paid by an administering agency to an owner under a Voucher Payment Contract in accordance with the Voucher Payment Contract and guidelines established by the Department, taking into consideration a participant's income, household size, contract unit size and/or geographic location.

Voucher payments shall be made only for those eligible participants during the actual period of occupancy in a contract unit. In no event shall payments be made by the Administering Agency pursuant to this program for vacancy losses, damage claims, participant's share of rent arrearage, or any other fee or charge owed by the participant.

Voucher Search Period. The period of time following the issuance or reissuance of a voucher within which a participant must submit a Request for Program Payment for a proposed contract unit that is determined by the administering agency to be a suitable unit. The voucher search period initially shall be 120 calendar days from the date of issuance, subject to modification pursuant to administrative guidance issued by the Department.

49.03: Eligibility for Program Participation(1) Income and Asset Limits for Admission and Continued Eligibility.

(a) For admission to the MRVP, the net income of eligible household members shall not exceed the income limit then in effect.

(b) A participant shall remain eligible for assistance until six months after the first date on which both of the following conditions are met:

1. The participant's net income, as defined in 760 CMR 49.05, exceeds the then-applicable income limit; and

2. The tenant's share of the rent is equal to, or greater than, the contract rent.

(c) For the purposes of initial eligibility an applicant household's total assets may not exceed one and one half times the gross household income of the applicant or \$25,000.00, whichever is greater. The following assets are exempt from this initial eligibility calculation: Individual Retirement Account, 401(k) pension, or similar retirement account subject to IRS regulation, and the value of any interest in a special needs trust, as defined by state and federal law. For these assets, there is no limitation. There is no asset limitation for purposes of continued eligibility. An "asset" includes but is not limited to the following:

1. The amount of all cash, savings, checking, money market or similar account.

2. The market value of equity in real property, stocks, bonds or other form of capital investment, whether personal or business.

3. The value of equity in such personal property as boats, recreational vehicles, luxury goods. Value is determined by taking the higher of the insured value or appraised market value.

4. Payment received or to be received in settlement of personal or property loss; money at interest and debts due applicant by any person(s), or the value of cash surrender insurance policies.

5. The value of any business or personal asset disposed of by any household member (including a disposition in trust) for less than fair market value during the two years prior to the determination of eligibility pursuant to 760 CMR 49.03 to the extent of the difference between the fair market value and the consideration received.

6. The value of any interest in a trust fund benefiting any adult household member.

(d) To be eligible for MRVP, an applicant may not own residential real estate.

(2) To be otherwise eligible for the MRVP, an applicant or participant including all household members must not:

(a) Owe back rent, damages, vacancy loss payments, or any other monies to an owner under a subsidized housing program or an administering agency, for which the household has not entered into a repayment agreement, or have failed to stay current with a repayment agreement;

(b) Have been terminated from any previous subsidized housing program for cause;

(c) Have had a judgment for possession of premises leased from an administering agency or an owner under a subsidized housing program entered against him or her by a court for good cause;

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- (d) Have misrepresented or falsified any information required to be submitted as part of the application process, or a prior application within three years, or for determining continued eligibility and the head of household fails to establish that the misrepresentation or falsification was unintentional;
- (e) Have committed program abuse or fraud, defined as a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead, in relation to MRVP;
- (f) Have engaged in criminal activity, which would interfere with or threaten the rights of other tenants, administering agency, or owner employees to be secure in their persons or in their property or with the rights of other tenants to peaceful enjoyment of their units and the common areas;
- (g) Be subject to lifetime registration as a sex offender in Massachusetts;
- (h) Have failed to comply with the terms of an MRVP voucher;
- (i) Have directed abusive or threatening behavior which was unreasonable and unwarranted toward an administering agency employee;
- (j) Have failed to provide information reasonably necessary for the administering agency to process the applicant's application or properly administer a participant's voucher;
- (k) Intend to live somewhere other than a contract unit as his or her sole residence (with the exception of minor children subject to joint custody arrangements);
- (l) Be a current illegal user of one or more controlled substances as defined in M.G.L. c. 94C, § 1. A person's illegal use of a controlled substance within the preceding 12 months shall create a presumption that such person is a current illegal user of a controlled substance, but the presumption may be overcome by a convincing showing that the person has permanently ceased all illegal use of controlled substances. This disqualification of current illegal users of controlled substances shall not apply to applicants for housing provided through a treatment program for illegal users of controlled substances;
- (m) Have ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine;
- (n) Be proven to have caused intentional damage to the contract unit in an amount exceeding two months of rent during any one year period; or
- (o) Violate any other eligibility requirements set forth in the MRVP budget line item as in effect from time to time or in administrative guidance issued by the Department.

(3) Requirements for Continued Program Participation. A participant in the MRVP remains eligible for program assistance provided that all members of the participant household then occupying the contract unit remain eligible in accordance with 760 CMR 49.03, the terms of the executed voucher document, and any other program documents.

49.04: Participant Selection

- (1) Each administering agency shall continue to select eligible participants from its project based and mobile voucher waiting lists in the order established in administrative guidance issued by the Department or in a Department-approved Tenant Selection Plan.
- (2) Participant selection for vouchers that serve targeted populations may be exempt from 760 CMR 49.04(1) if approved by the Department.
- (3) Every applicant shall use the application forms approved by the Department. The application forms shall be available at all Administering Agencies' central offices, or upon request, by mail. The Administering Agencies shall provide reasonable assistance to applicants in completing the application forms. When an applicant submits an application form to an administering agency, the administering agency shall accept the application.
- (4) Determinations of Priority, Preference, Eligibility, and Qualification.
 - (a) When an applicant approaches the top of an open waiting list for an administering agency program to which the applicant has applied, the administering agency shall make a final determination of the applicant's priority, preference, eligibility, and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the administering agency. The administering agency must only accept applications if the waiting list is open.

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(b) If the administering agency determines that an applicant is not eligible for a claimed priority or preference or is ineligible or unqualified for housing, it shall send written notification to the applicant of:

1. the determination;
2. the reason(s) for the determination detailing the material facts; and
3. the right to request a private conference to determine the applicant's priority, preference, eligibility, and/or qualification pursuant to 760 CMR 49.00.

(5) Offers to Applicants. An applicant offered a mobile voucher shall make a diligent search to locate an apartment within the voucher search period. An applicant who is unsuccessful in locating a suitable unit within such time periods shall lose the voucher, and the administering agency shall remove the applicant from the waiting list.

(6) Review of Denial of Eligibility, Qualification, Priority Status, or Preference Status.

(a) The Private Conference Between Applicant and Administering Agency. Applicants who are determined ineligible for the program or ineligible for a priority or preference are entitled to request a private conference with the administering agency in accordance with the procedures set out in administrative guidance by the Department.

(b) The Administering Agency's Decision Following a Private Conference. The administering agency must issue a written decision following a private conference, and the applicant may request reconsideration by the administering agency's board or other equivalent body, in accordance with the procedures set out in administrative guidance by the Department.

(7) In determining qualification, the administering agency shall check Criminal Offender Record Information (CORI) and Sex Offender Registry Information (SORI) and may also check: public records; other sources of public information; credit reports; and other reliable sources.

49.05: Determination of the Voucher Payment

(1) The administering agency shall establish each participant's net income as defined in 760 CMR 49.05. The amount of a participant's voucher payment shall be established in administrative guidance published by the Department. Appropriate unit size shall be determined on the basis of the size and composition of the participant's household in accordance with the definition in 760 CMR 49.02.

(2) Each MRVP participant holding a mobile or project based voucher shall pay a minimum of 30% of net household income toward rent or such greater or lesser percentage as may be required pursuant to the MRVP budget line item governing program administration in any fiscal year. The Department may, and to the extent required by the then-current MRVP budget line item shall, issue administrative guidance setting a maximum percentage of net household income that may be applied toward rent.

(3) When the amount of the voucher payment for a participant has been determined in accordance with 760 CMR 49.05(1), a voucher payment will be sent each month to the owner of the contract unit in which the participant lives, and the remainder of the contract rent shall be paid to the owner by the participant.

(4) The amount of the voucher payment shall equal the monthly contract rent minus the participant's share of rent calculated in accordance with 760 CMR 49.05(2).

(5) For the purpose of determining the amount of a voucher payment, a participant's net income shall be determined as follows, unless otherwise required by the MRVP budget line item Language governing program administration in any fiscal year:

(a) Gross Income. A participant's gross income means the income from all sources of the head of household and each additional member of the household, which is anticipated to be received during the 12 months following admission or redetermination of household income.

(b) Inclusions in Gross Household Income. Gross household income shall be the total of the following items:

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1. One half of the earned income of household member who is the dependent of another household member and who is 18, 19 or 20 years of age shall be included in a participant's gross income.
 2. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
 3. Income from the operation of a business or profession by each self-employed household member after deduction for the ordinary and necessary expenses of the business or profession. The deductible expenses of the business or profession shall not exceed 85% of the gross receipts of the business or profession. Deductible expenses of the business or profession shall not include rent or utilities paid for the participant's contract unit if the business or profession is located in the participant's contract unit.
 4. Income of any kind from real or personal property including rent, dividends, and interest. Amortization of capital indebtedness and depreciation shall not be deducted in computing net income. Any realization of taxable capital gain on sale or transfer of an investment or other real or personal property shall be included in income. If the household has marketable real or personal property with a fair market value exceeding \$5,000.00 (excluding any automobile used as the primary means of transportation by one or more household members), gross household income shall include actual income derived from any such property.
 5. Periodic payments received from Social Security, annuities, retirement funds, and pensions, individual retirement accounts, and other similar types of periodic payments of retirement benefits, excluding non-taxable amounts which constitute return of capital and are specifically identified as such by payer.
 6. Payments in lieu of earnings, such as unemployment compensation; Supplemental Security Income (SSI); Social Security Disability Income (SSDI); and benefits in *lieu* of earnings under disability insurance, health and accident insurance or workers' compensation. An unallocated lump sum settlement or similar payment all or partly on account of lost wages resulting from an injury shall be equitably allocated to reflect a monthly payment on account of lost wages for the period during which the recipient is likely to be disabled from the injury and the recipient will be deemed to receive such a monthly payment each month during the continuance of his or her disability until the allocated funds are deemed exhausted. Payments from the government, subsequently reimbursed to the government, are not to be included as income.
 7. Regularly recurring contributions or gifts received from non-household members; to be regularly recurring a contribution or gift must occur at least twice a year for two or more years, provided that a contribution or gift in excess of \$2,000.00 which occurs once a year from year to year for two or more years shall also be deemed to be regularly recurring.
 8. Regular payments of public assistance, excluding Supplemental Nutrition Assistance Program (SNAP).
 9. Payments received for the support of a minor, such as payments for child support, foster care, social security, or public assistance, including payments nominally made to a minor for his or her support but controlled for his or her benefit by a household member who is responsible for his or her support.
 10. Lottery winnings, gambling winnings and similar receipts.
 11. Receipts of principal and income from the trustee of a trust, and receipts of income from the executor or administrator of an estate or from some other fiduciary.
 12. Alimony or payment for separate support.
 13. Any other source of income not explicitly excluded under 760 CMR 49.05(5)(c).
- (c) Exclusions from Gross Household Income. Gross household income shall not include any of the following items:
1. Earned income of a working child younger than 18 years old.
 2. Gifts which are not regularly recurring.
 3. Amounts (including lump-sums), which are specifically received for the cost of medical care, or which are made to compensate for personal injury or damage to or loss of property under health, accident or liability insurance, workers' compensation, judgments or settlements of claims, insofar as these payments do not compensate for loss of income for a period when the recipient was or would be a participant.

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4. Amounts of educational scholarships or stipends for a student at an educational institution, including amounts paid for these purposes to part-time students, whether paid directly to the student or the educational institution, and amounts paid by the United States Government to a veteran for use in paying tuition, fees, or the cost of books, to the extent that such payments are so used.
5. The special pay to a member of the armed forces on account of service in a war zone.
6. Relocation payments made pursuant to state or federal law.
7. Payments received from the Social Security Administration program known as the Plan to Attain Self Sufficiency (PASS), provided that recipient fulfills all PASS program requirements.
8. Benefits received under the Supplemental Nutrition Assistance Program (SNAP).
9. Funds and payments received by participants or volunteers in programs pursuant to AmeriCorps, City Year, the Segal AmeriCorps Education Award, and the *Domestic Volunteer Service Act* of 1973 or similar programs approved by the Department.
10. The increased amount of income earned from employment by one or more household members if the increase in earned income otherwise would result in a rent increase provided that:
 - a. The household's income has been derived, at least in part, from Temporary Assistance to Needy Families (TANF), Emergency Assistance to the Elderly, Disabled and Children (EAEDC), SSI, SSDI or successor program for each of the previous 12 months;
 - b. The household's increased earned income has been accompanied by a decrease in the amount of TANF, EAEDC, SSI, SSDI, or public assistance from a successor program; and
 - c. At the commencement of this exclusion the recipient of such public assistance would have remained eligible for such assistance if the income had not been earned. This earned income exclusion shall be in effect for one continuous 12 month period, regardless of any changes or gaps in employment during that period. This exclusion may be exercised by the participant when a household member has procured either full or part-time employment. It shall be within the participant's sole discretion whether or not to exercise this one-time income exclusion.
11. Payments for a household member in association with participation in a *bona fide* program providing training for employment, approved by the Department or sponsored or administered by a government agency.
12. Wages and/or salary earned by a full-time student, as defined in 760 CMR 49.02: Full-time Student.
13. Income of a live-in PCA, who is paid for the fair value of his or her services to a household member with a disability and whose income is not available for the needs of any household member, provided that the PCA shall be required to substantiate that he or she receives wages for the fair value of his or her services and that such income is not available for the needs of any household member.
14. Inheritances and life insurance proceeds. This exclusion does not apply to post-death interest paid on inheritances or insurance proceeds.
15. Total Disability Veterans Compensation. Amounts received from the United States Government by unemployable disabled veterans on account of such disability which occurred in connection with military service.
 - a. Total Disability veterans Compensation that is in excess of \$1,800 per month shall be excluded. No deductions shall be applied against the amounts over \$1,800 per month that are excluded.
 - b. If an AA had, prior to October 6, 2016, exercised its discretion to exclude Total Disability Veterans Compensation in excess of \$1,800 per year, such AA may, in its discretion, continue to exclude all of such amounts or it may increase the rent by no more than 10% per year, until it is equal to the rent as calculated with the exclusion required by 760 CMR 49.05(5)(c)15.a. If the AA exercises its discretion to exclude more than the amount required by 760 CMR 49.05(5)(c)15.a., no deductions shall be applied against Total Disability Veterans Compensation.
16. A return of capital on sale or transfer of an investment or of other real or personal property.

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17. Wages and/or salary earned by a participant 62 years of age or older, or other household member, 62 years of age or older, not to exceed the total amount which would have been earned by a person working 20 hours per week at the minimum wage specified in M.G.L. c. 151, §1.

(d) Net Income. A participant's net income is gross income less the following deductions up to, but not exceeding, an aggregate amount equal to the participant's net income. In no event shall participant's net income be less than zero:

1. A deduction of 5% of the gross income of a participant household whose head is at least 62 years of age or where the head of household or a household member is disabled.
2. For a participant with a mobile voucher who is responsible for the cost of heat separate from rent, a deduction for heat calculated in accordance with administrative guidance published by the Department.
3. Payments for necessary medical expenses (including co-payment amounts) which are not covered by insurance or otherwise reimbursed, provided that such expenses are in excess of 3% of annual gross household income and are paid by household members. Payments for medical health insurance are considered medical expenses.
4. Payments for the care of child(ren) or of a sick or incapacitated household member provided that the administering agency shall have determined the payments to be necessary for the employment of another household member who would otherwise have provided such care.
5. Child support, separate support, and/or alimony paid under court order or court ordered agreement by a household member for the support of a minor child, spouse, or ex-spouse, not residing with the household.
6. Non-reimbursable payments of tuition and fees of vocationally related post-secondary education of a household member who is not a full-time student.
7. Non-reimbursable payments for reasonable and necessary housekeeping or personal care services for a household member with a disability who as a result of the disability is physically unable to perform the housekeeping or personal care services provided that no household member is reasonably available to perform these services.
8. Travel expense, in excess of the cost of the least expensive available transportation, for a household member with a disability who as a result of the disability is unable to use the least expensive available transportation and who uses the least expensive transportation practical in connection with necessary activities which cannot be performed by another household member.

(6) In no event shall the amount of the voucher payment exceed the contract rent.

(7) Redetermination for Continued Program Participation.

(a) Determination of Voucher Payment on Annual Basis. At least once in every 12 month period, each participant shall provide complete and accurate information about income and composition of the household. The administering agency shall require the participant to provide reliable third party verification of all necessary information. The administering agency may find any household which fails to provide such information ineligible for continued participation. The administering agency shall determine whether the participant's voucher payment and share of rent should be adjusted, whether a participant's contract unit size is still appropriate for participant's needs, and whether the participant is eligible for continued program participation. If the participant's share of the rent is adjusted, the amount of the voucher payment shall be adjusted accordingly.

(b) Changes in Voucher Payment Between Regular Redetermination Dates.

1. When monthly income of the participant household decreases, an increase in the amount of the voucher payment shall be made when requested by the participant. The changed voucher payment will be effective on the next regular payment date following the report to the administering agency and verification of the lower income.
2. Participants shall inform the administering agency of all increases in monthly income of the household of 10% or more, other than due to a change in household composition, within 30 calendar days of such increases. A decrease in the voucher payment resulting from the increased earned income, not due to a change in household composition, shall not take effect until income is again redetermined at the next scheduled annual recertification, unless the increase in income occurs within three calendar months of a reported decrease in participant income that had resulted in a prior increase in the voucher payment.

49.05: continued

3. Changes in household size and/or composition must be reported to the administering agency within 30 calendar days of such changes. The addition of any household member other than through birth, adoption or court ordered custody shall be subject to prior approval by the administering agency. At the time that the size of the household is reported, the net income and voucher payment shall be reviewed and revised. If the participant's net income has decreased due to a change in household size or composition, the voucher payment shall be changed effective the first payment date following the report and verification of the change in household size or composition. If the participant's net income has increased due to a change in household size or composition, the voucher payment shall be changed effective on the first payment date of the second month following the report of change in household, unless such change was not reported within the required 30 calendar days.
4. If a participant with a mobile voucher relocates, the participant's continued eligibility, share of rent and appropriate unit size shall be fully redetermined at that time.
5. Voucher payments shall be adjusted whenever necessary to comply with 760 CMR 49.05, other regulations, or applicable law.
6. A participant's failure to report either an increase in household income or a change in household size or composition shall be grounds for termination of the participant from the program if such increase or change, if reported, would have resulted in a decreased voucher payment. In the event that the administering agency does not terminate the participant's participation in the program, the voucher payment shall be adjusted retroactive to the date such change would have taken effect had the household change been properly reported, and the administering agency shall enter into a repayment agreement with the participant for the difference. In determining whether to terminate a participant or enter into a repayment agreement, the administering agency shall act in accordance with any administrative guidance that may be issued by the Department.
7. In the event that a participant files a grievance as to the amount of a redetermined rent share within 14 calendar days of the administering agency's notice of the redetermined rent, the participant shall pay the redetermined rent until disposition of the grievance. Following disposition of the grievance, the administering agency shall pay the owner any amounts paid but determined not to have been due by the participant. In turn, the owner shall reimburse or credit the participant. If the owner fails to so reimburse or credit the participant, the administering agency may suspend the owner's future payments until the owner reimburses or credits the participant. In the absence of a grievance, the redetermined rent shall be paid beginning on its effective date.

49.06: Project Based Vouchers

- (1) When an applicant is determined eligible for and offered a project based unit pursuant to 760 CMR 49.03, the applicant must accept the owner's offer within seven calendar days of the date of the written offer. An applicant for a project based unit is entitled to only one offer of a unit of appropriate unit size provided the applicant may be entitled to another unit offer when the applicant provides reliable documentation establishing that the unit offered is inappropriate and would cause severe and unreasonable hardship. An applicant, who fails to accept the offer of a unit within seven calendar days or to provide such documentation within that period, shall be removed from the waiting list.
- (2) The owner must supply the administering agency with a certification from the local Board of Health or other local code enforcement entity or other certified inspector, such as an inspector qualified to complete HQS inspections, that the contract unit is in compliance with 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* or HUD housing quality standards and (if applicable) a certification from a Certified Lead Inspector that the contract unit is in compliance with applicable lead paint law. Any cost(s) incurred as a result of this requirement shall be borne by the owner.
- (3) The administering agency shall then begin making voucher payments to the owner of the project based unit on behalf of the participant.

49.06: continued

(4) When a Voucher Payment Contract with the owner has been executed or amended, the terms and conditions of the participant's voucher remain in effect for the period of time that the participant occupies the project based unit. When a participant chooses or is required to move, the voucher will terminate and the participant shall not be entitled to any MRVP benefits.

(5) If a participant residing in a project based unit is no longer residing in an appropriate sized unit due to a decrease in household size, the participant must accept the administering agency's offer of housing assistance, made in accordance with administrative guidance. If the participant refuses the administering agency's offer of housing assistance, the participant's participation in MRVP shall be terminated.

49.07: Mobile Vouchers

(1) After an MRVP applicant who has reached the top of the waiting list is determined eligible and qualified by an administering agency, the administering agency shall promptly issue a mobile voucher, if a voucher is available, to that applicant who then shall become a participant.

(2) Within the voucher search period, a participant shall submit a Request for Program Payment for a proposed contract unit to the administering agency. Upon submission of a Request for Program Payment, the voucher search period shall be suspended until the administering agency processes the request. If the administering agency deems the unit unacceptable, the voucher search period will resume, and any subsequent Request for Program Payment must be submitted prior to the expiration of the balance of the voucher search period. The owner must also supply the administering agency with a certification from the local Board of Health or other local code enforcement entity or other certified inspector, such as an inspector qualified to complete HQS inspections, that the contract unit is in compliance with 105 CMR 410.000: *Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II)* or HUD housing quality standards and (if applicable) a certification from a Certified Lead Inspector that the proposed contract unit is in compliance with applicable lead paint law. Any cost(s) incurred as a result of this requirement shall be borne by the owner.

(3) Upon receipt of the necessary documentation, the administering agency shall enter into a Voucher Payment Contract with the owner of the contract unit, on behalf of the participant.

(4) While a Voucher Payment Contract is in effect, the terms and conditions of the participant's voucher remain in effect for the period of time that the participant occupies the contract unit or until otherwise terminated. When a participant chooses or is required to move, the participant shall give written notice in accordance with the provisions of the voucher. If a move is approved by the administering agency, the administering agency shall issue a new voucher, and the participant shall submit a Request for Program Payment for a proposed contract unit within the voucher search period.

(5) If the participant does not locate a suitable unit within the voucher search period, the voucher will expire, and the participant shall not be entitled to further benefits.

(6) LHAs may administer mobile vouchers within a region, as defined in guidance provided by the Department. A participant with a mobile voucher may move anywhere in the state without jeopardizing program eligibility. When a participant relocates from one administering agency's jurisdiction to another, the voucher may be administered by the administering agency in the city or town where the participant takes up residence and the amount of the voucher payment will be determined by the receiving administering agency, pursuant to the specifications in 760 CMR 49.05(1).

49.08: Additional Vouchers

The Department may set-aside or otherwise target additional vouchers with funding authorization to particular income eligible populations and may modify requirements, including eligibility, selection, and participation requirements, for such vouchers. The Department may solicit proposals for such uses. No voucher program may be based on utilization of vouchers for a term of less than six months per voucher.

49.09: Required Documents

Documents required in the administration of the MRVP shall include, but are not limited to:

- (1) Annual Contributions Contract (ACC). An ACC setting out the duties and obligations of the Department and the administering agency must be signed by authorized representatives of both parties.
- (2) Voucher Payment Contract. A contract provided by the Department must be signed by the owner of a contract unit and an administering agency.
- (3) Lease Addendum. All MRVP participants and owners are required to execute either an MRVP Lease or an MRVP Lease Addendum to the owner's form of lease, in either case in the form prescribed by the Department. This document insures that a participant is not bound by a lease that unfairly waives certain legal rights.
- (4) Voucher. All MRVP participants and authorized administering agency representatives must sign a voucher in a form provided by the Department which shall set out the rights, duties and obligations of the participant. The voucher shall constitute a contract between the participant and the administering agency.
- (5) Request for Program Payment. When a participant with a mobile voucher locates a suitable unit, the participant shall submit to the administering agency a Request for Program Payment, on a form prescribed by the Department which shall set out the address of the proposed contract unit, the number of bedrooms, the party responsible for payment of utilities, the name and address of the owner, and the proposed contract rent.
- (6) The Department may develop and issue guidelines and/or standard forms to be used by the administering agency in connection with 760 CMR 49.00 and with reports and actions required by the Department. It is the responsibility of each administering agency to administer the program in accordance with the current guidelines and the current forms.

49.10: Grievance Procedure

- (1) Requirements for Grievance Procedures. An administering agency's grievance procedure shall provide for the following:
 - (a) A grievance shall be initiated by a participant in writing and shall be mailed or delivered to the administering agency at its main office within 14 calendar days after the date of notification was sent, which has been given to the participant by the administering agency, provided that the administering agency shall have discretion to permit a grievance to be initiated late.

The administering agency shall permit additional time for initiation of a grievance if the administering agency shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the administering agency.
 - (b) Informal Settlement Conference. Promptly after the initiation of a grievance, the administering agency shall offer the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The administering agency shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the administering agency. If a matter is not resolved at the informal settlement conference, a grievance hearing shall be held. Failure to attend an informal settlement conference shall not affect a grievant's right to a grievance hearing.
 - (c) Hearing Date and Notice of Hearing. A grievance hearing regarding whether good cause exists for terminating a voucher shall be scheduled as soon as possible, but no later than 21 calendar days or as soon as reasonably practical after the date on which the administering agency receives the grievance. A hearing of a grievance regarding some other issue, shall be scheduled as soon as reasonably convenient following receipt of the grievance. Two or more Administering Agencies may share staffing responsibilities to conduct such hearings.

49.10: continued

The administering agency shall give reasonable advance written notice of the time and place of the hearing to the grievant and to his or her representative (if any). The administering agency, the hearing panel, or the hearing officer may reschedule a hearing by agreement or upon a showing by grievant or by the administering agency that rescheduling is reasonably necessary.

(d) Pre-hearing Examination of Relevant Documents. Prior to a grievance hearing the administering agency shall give the grievant or his or her representative a reasonable opportunity to examine administering agency documents which are directly relevant to the grievance. Following a timely request, the administering agency shall provide copies of such documents to grievant and, for good cause (including financial hardship), may waive the charge for the copies.

(e) Persons Entitled to be Present. At the hearing the administering agency and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly manner or he or she shall be excluded.

(f) Procedure at Grievance Hearings. The hearing panel or the hearing officer shall conduct the grievance hearing in a fair manner without undue delay. The hearing panel or the hearing officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the administering agency shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be recorded. The members of the hearing panel or the hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and administering agency rules and policies. The panel members or the hearing officer may request the administering agency or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information.

(g) Written Decision; Effect of Decision. Within 14 calendar days following the hearing or as soon thereafter as reasonably possible the hearing panel or the hearing officer shall provide the administering agency with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the evidence at the grievance hearing and such additional information as may have been requested by the panel members or the hearing officer. The administering agency shall forthwith mail or otherwise deliver a copy of the decision to the grievant and his or her representative. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the administering agency and shall be open to public inspection.

(h) Review by the administering agency's Board or other equivalent body, as designated by the administering agency. The grievant or the administering agency may request review of the decision by the administering agency's Board or other equivalent body, as designated by the administering agency. The Board or other equivalent body shall promptly decide whether to uphold, set aside or modify the decision after permitting the administering agency and grievant to make oral presentations and submit documentation. The Board or other equivalent body may also permit the hearing officer or hearing panel to make a presentation. The decision of the Board or other equivalent body shall be in writing and shall explain its reasoning. If a written decision is not rendered within 45 calendar days from the date a review is requested, the decision of the Board or other equivalent body, when rendered, shall specify a reason showing that there has been no undue delay.

(i) Review by the Department. In the event that the administering agency's Board or other equivalent body shall make a material change in a decision of the hearing panel or the hearing officer, upon written request of the administering agency or the grievant within 14 calendar days of mailing or other delivery of the decision, the Department shall review the decision of the Board or other equivalent body. The Department may request written documentation from the parties. The Department will review all submitted materials and will render a written decision after consideration of the facts presented upholding, setting aside or modifying the decision of the Board or other equivalent body.

49.10: continued

(j) Effect of a Decision on a Grievance. The last rendered decision on a grievance shall be binding between the administering agency and the grievant with respect to the particular circumstances involved in the grievance, provided that a participant must exhaust all administrative remedies prior to seeking review in court. If a participant does not timely pursue the appropriate administrative remedy in accordance with the grievance process and timeframes specified in 760 CMR 49.00, that level of review shall be deemed to be waived. If a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. As between the administering agency and any person who was not a grievant, the decision on a grievance shall have no binding effect.

(k) The administering agency shall continue to pay the MRVP voucher payment to the owner on behalf of the MRVP participant, until the MRVP participant's voucher has been terminated and the MRVP participant has ceased to pursue the grievance process in accordance with the requirements of 760 CMR 49.00, so long as a court of competent jurisdiction has not declared that the MRVP participant is no longer a valid tenant in the contract unit.

49.11: Waiver Provision

Any provision of 760 CMR 49.00 may be waived in writing by the Undersecretary of the Department or his or her designee, in his or her discretion, based on a determination that the change is reasonable and will be consistent with the purposes of the MRVP.

49.12: Conflicts of Interest

No member, officer, agent or employee of the administering agency shall participate in a decision relating to the units under the administering agency's contract with the Department to administer the MRVP which affect his or her personal interest or the interest of a corporation, partnership or project in which he or she is directly or indirectly interested. No member, officer, agent or employee of the administering agency shall have an interest, direct or indirect in the contract for property, materials or services in connection with units covered by the contract to administer the MRVP voucher(s). The Department may waive conflicts of interest, if requested in writing for a good cause and if permitted under federal and state law.

49.13: Wage Matching

The Department may implement the provisions of M.G.L. c. 62E (the Commonwealth's Wage Reporting and Financial Institution Match System Statute) to verify the wages and financial eligibility of applicants or participants in MRVP.

REGULATORY AUTHORITY

760 CMR 49.00: M.G.L. c. 23B; c.121B, § 29.

(PAGES 471 THROUGH 480 ARE RESERVED FOR FUTURE USE.)