Commonwealth of Massachusetts
DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT
Charles D. Baker, Governor ◆ Karyn E. Polito, Lieutenant Governor ◆ Jennifer D. Maddox, Undersecretary

PHN 2020-12 - ADDENDUM#2-A

To: Local Housing Authority (LHA) Executive Directors
From: Ben Stone, Associate Director, Division of Public Housing
Subject: DHCD Guidance on Policy Regarding Procedures for LHA Deferment of Calendar Year 2020 Annual Rent Determinations and Impact of PHN 2020-21-A, Rent Policy During COVID-19 Emergency
Date: May 11, 2020

WHAT YOU NEED TO KNOW – KEY POINTS:

1. If an LHA chooses to use DHCD waiver of 760 CMR 6.04(4) to defer calendar year 2020 Annual Rent Determinations, it must be implemented fairly and consistently, in compliance with other DHCD regulations and guidance.

2. LHAs that have done annual determinations effective in April or May may need to adjust some rents charged for June and July to comply with PHN 2020-21A "Rent Cap" policy and exclude enhanced unemployment benefits for April and May.

The Department of Housing and Community Development (DHCD) has received several requests for clarification regarding the Annual Rent Recertification waiver issued in PHN 2020-12, which waived the requirement in 760 CMR 6.04(4) that LHAs conduct annual rent determinations for calendar year 2020. In response DHCD issued PHN 2020-12 Addendum #2 on May 5, 2020. This notice supersedes PHN 2020-12 Addendum #2, which is now void. This notice addresses concerns raised by stakeholders regarding implementation and incorporates changes due to the issuance of PHN 2020-21A, Rent Policy During COVID-19 Emergency.

In PHN 2020-21A, DHCD temporarily waived its regulations at 760 CMR 6.04(4) (annual redetermination of rent) and 760 CMR 6.05(a) (interim redetermination of rent) to require Local Housing Authorities (LHAs) to limit rent increases in state-aided public housing for the months of June and July. The waiver took effect immediately on May 11, 2020 and, for June and July; rent for existing tenant households with earned income or unemployment benefits is to be capped at the amount charged to them on March 1, 2020. In addition, PHN 2020-21A directs LHAs to exclude the $600 per week Federal Pandemic Unemployment Compensation (FPUC) for the months of April and May (retroactively if necessary). The purpose of this addendum is to provide a clarification of how these waivers are to be implemented by LHAs.

1. LHAs may elect to defer calendar year 2020 annual rent determinations until 2021. LHAs that decide to implement the waiver and defer calendar year 2020 annual rent determinations must do so consistently and fairly. In accordance with PHN 2020-21A, for tenant households with earned income or income from unemployment benefits, the monthly rent will remain at or be adjusted to no more than the monthly rent charged on March 1, 2020 for the period of June 1, 2020 to July 31, 2020, or such later date as determined by DHCD.

a. The waiver applies to annual rent determinations that have not been completed or started for 2020.

i. LHAs that have begun the process of annual rent determinations in a housing development prior to the issuance of the waiver of annual rent determination should continue to completion at least for the entire development (i.e., the LHA has notified tenants, received income, exclusion, and deduction information, calculated and notified tenants of rent). For purposes of the annual rent determination, FPUC income for the months of April and May must be excluded. While the LHA must include FPUC in income for purposes of its annual rent redetermination, the *rent* for June and July should be capped at the rent amount charged on March 1. Unless extended by DHCD, effective August 1, 2020, the monthly rent will be the monthly rent that was determined by the annual rent determination, though LHAs should recalculate rent if income falls; for example if the FPUC expires and the tenant loses that enhanced benefit.

ii. Annual rent determinations completed prior to the waiver do not have to be undone. However, the LHA must review each tenant household rent to determine whether FPUC was included in income and whether the household has earned income. If so, rents for April and May must be recalculated based on exclusion of FPUC from income for those months, and, for June and July, although all income not normally excluded by the regulation, must be included in calculating net income, the rent is capped at the March 1 amount. Note, however, that federal stimulus payments ($1,200 per adult, $500 per child) are not included in household income.

iii. LHAs that conduct annual rent determinations as of the tenant's lease date cannot only perform annual rent determinations for specific tenants within a development or program. If your LHA conducts annual rent determinations based on lease date rather than once a year across all developments or all programs, you **must** choose to implement the waiver across all developments or all programs.

2. LHAs that do not conduct annual redeterminations in 2020 may not retroactively perform annual rent determinations for 2020. In other words, if the LHA chooses to implement the waiver for 2020, the annual rent determination for 2020 may not be done at any time in the future.

a. Monthly rent will remain at the previously determined 2019 amount, until an annual rent determination is conducted in 2021, unless and until the tenant requests an Interim Rent Determination.

i. If a tenant requests an LHA conduct an Interim Determination due to a decrease or the tenant is reporting a monthly increase of 10% or more, the LHA must follow the guidance in PHN 2020-21A.

3. LHAs must process interim rent determinations.

a. If income has increased due to increased work income or FPUC, rent may not increase above the amount charged on March 1, 2020 for June and July or such later date as determined by DHCD. If income change is unrelated to work income or FPUC, LHA should compute rent normally.

4. LHAs may choose to continue to conduct annual rent redeterminations in calendar year 2020.

a. LHAs can process annual rent redeterminations following the process required by 760 CMR 6.04, however, for tenant households with earned income or income from unemployment benefits, the new

monthly rent, if higher than the rent the tenant paid on March 1, 2020, cannot be effective for June and July, 2020. The calculation of household income for April and May must not include FPUC. If the new monthly rent is lower than the tenant rent paid on March 1, 2020, the effective date of the lower rent will be the usual effective date of the annual rent determination.

If you have any further questions, please contact your Housing Management Specialist.