



**Massachusetts Department of Housing and Community Development**  
**Division of Housing Stabilization**

To: DHCD Field Staff

From: Robert Pulster, Associate Director *Robert Pulster*

Date: September 17, 2012

RE: Housing Stabilization Notice 2012-13, Cross-References to New Regulation Numbers

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This Housing Stabilization Notice ("HSN") is intended to give guidance on cross-references from the old Emergency Assistance ("EA") regulation numbers (106 C.M.R. c. 309) to the new EA regulation numbers (760 C.M.R. c. 67).

**Introduction**

The Secretary of State's Office recently informed the Department of Housing Stabilization ("DHCD") Division of Housing Stabilization ("DHS") that, in order to make any changes to EA regulations, DHCD would have to renumber the EA regulations as part of the DHCD regulations, which are included in title 760 of the Code of Massachusetts Regulations. The EA regulations were assigned to Chapter 67. The numbering system for sections and subheadings of the DHCD regulations differs substantially from the Department of Transitional Assistance ("DTA") regulatory numbering scheme.

- Going forward, EA will be governed by 760 C.M.R. c. 67, and not 106 C.M.R. c. 309. The new regulations are parallel to the old regulation in all substantive ways, with the exception that new provisions to address Fiscal Year 2013 legislative changes, and to address several longstanding issues of regulatory interpretation have been added.
- The new provisions regarding changes mandated by the Fiscal Year 2013 legislation are located in 760 C.M.R. §§ 67.06 (1) (a), 67.06 (1) (f), and 67.06 (1) (g).
  - \* 760 C.M.R. § 67.06 (1) (a) is parallel to 106 C.M.R. § 309.040 (A) (1) (eligibility for temporary emergency shelter).
  - \* 760 C.M.R. § 67.06 (1) (e) is parallel to 106 C.M.R. § 309.040 (A) (5) (verifications).
  - \* 760 C.M.R. § 67.06 (1) (f) is a new subsection containing definitions.
- There is also a substantive change to the old EA regulations, with the addition of a waiver provision at 760 C.M.R. § 67.10.

- The new regulatory numbering system was effective August 6, 2012, but forms issued with the old regulatory numbers remain valid.
- Previously issued subregulatory guidance remains in effect.
- When referring to old forms and guidance in communications (including forms and documents) issued after this date, workers should also try when possible to reference parallel provisions of the new EA regulations in accordance with the attached table.

## **Discussion**

DHS has a number of subregulatory guidance's and other documents, including previously issued forms that use the prior EA regulation numbers. All EA forms intended to be given to EA applicants and participants have been reviewed and new forms conforming to the new regulation numbers have been posted on the DHS internal SharePoint site. DHS is not able, however, to re-issue forms that have already been provided to participants.

The attached tables detail the parallels between the new EA regulations, found at 760 C.M.R. c. 67, and the old EA regulations, found at 106 C.M.R. c. 309. Because there are no substantive changes at this time—aside from the changes mandated by the Fiscal Year 2013 legislation, the addition of the waiver provision, and the clarification of longstanding issues referred to above—all previously issued EA forms will remain valid and in effect. When referring to previously issued forms in appeals before the DHCD Hearing Division and in correspondence, whenever possible DHS workers should provide parallel references to the old regulatory numbers used on the forms and to the parallel new regulatory number, as indicated in the attached tables.

For a brief period after August 6, 2012, some forms may have been issued with the new DHCD title and chapter numbers (760 CMR c. 67), but with the assumption that the old DTA numbering system for sections and subheadings would remain intact. Any form issued after August 6, 2012, with the new title and chapter numbers (760 CMR c. 67), but using the old EA section and subheading numbering scheme remains valid and the attached tables should be referred to in determining the correct parallel provision number.

There are two sets of tables attached. They contain the same information in slightly different formats. One table is a one-page legal-sized sheet in two column format with a quick comparison of each numbered or lettered provision under the old and the new numbering schemes. The other table is on legal-sized paper in landscape layout and shows the parallel provisions in a hierarchical format. Depending on the situation, one or the other format may be more useful to refer to when looking for parallel provisions in the old and new regulations.

A number of outstanding EA program materials contain references to the old EA regulatory numbering scheme. Until new versions of all outstanding EA documents are able to be prepared, all outstanding contracts, subregulatory guidance, and other administrative materials remain in effect, with the parallel provisions of the new EA regulations substituted by reference to the attached tables.

The following previously issued EA subregulatory guidance remains at least partially in effect, with the parallel provisions of the new EA regulatory numbering system substituted and incorporated by reference:

DTA Field Operations Memorandum (“FOM”) 2003-28, *EA: Pregnant Women*

DTA FOM 2004-39A, *EA Shelter Continues for Six Months When Income Exceeds EA Eligibility Standard*

DTA FOM 2005-25, *Local Housing Authority Transitional Housing Program II: Renewal and Expansion of LHATHP*

DTA FOM 2005-55, *F.O.R. Families Program* (applicable only to the extent of F.O.R. Families involvement with EA families placed in EA hotel interim placements serviced by the F.O.R. Families program)

DTA FOM 2006-04, *EA – Frequently Asked Questions Regarding EA Eligibility*

DTA FOM 2006-09, *Requests for Family Shelter: Level Two and Three Sex Offenders*

DTA FOM 2006-09B, *Revised SORB Request Form*

DTA FOM 2006-49, *Shelter Benefits Received Under Presumptive Eligibility Not Subject to 12-Month Rule and Assistance Pending an Appeal when Presumptive Eligibility Shelter Terminated*

DTA FOM 2007-40, *EA Self-Sufficiency Plan*

DTA FOM 2008-62, *EA: Referrals for Noncompliance Determination* (applicable only to the extent relating to treatment of *Personal Use or Possession of Controlled Substance*)

DTA FOM 2008-74, *Housing Opportunities for EA Families* (applicable only to the extent relating to EA families’ participation in housing search)

DTA FOM 2009-07, *Department Obligations Under the Americans With Disabilities Act (ADA)*

DTA FOM 2009-20, *Emergency Assistance Program Changes*

DTA FOM 2009-32, *EA Program Transitions from DTA to DHCD*

DHCD HSN 2009-02, *EA Changes and Developments*

DHCD HSN 2010-01, *Guidance on Additional Adult Household Members*

DHCD HSN 2011-01, *EA Eligibility of Former Flex Funds Recipients*

DHCD HSN 2011-02, *Definition of Spouse*

DHCD HSN 2011-03, *Guidance on Basic Verifications on Intake*

DHCD HSN 2012-01, *Implementation of Increase in the Federal Poverty Guidelines*

DHCD HSN 2012-02, *Emergency Assistance Applicants Previously Granted Flex Funds Whose Benefits are Terminated*

DHCD HSN 2012-03, *HomeBASE Relationship to Emergency Assistance; HomeBASE not Subject to EA 12-Month Rule*

DHCD HSN 2012-04, *Guidance on Temporary Emergency Shelter Interruptions ("TESI")*

DHCD HSN 2012-05, *Guidance on Eligibility Issues Relating to Housing before Homelessness*

DTA FOMs referred to above remain in effect only to the extent that they conform to current EA practices since the transfer of the EA program from DTA to DHCD. Parallel terms should be understood to apply to current EA terminology (such as "household" or "family" instead of "assistance unit," references to ASIST instead of BEACON, etc.). No individual provision of a DTA FOM that has been superseded by a subsequent regulation or a subsequent DHCD HSN or form, regardless of whether such subsequent provision explicitly referred to the relevant provision of the DTA FOM or not, remains in effect. Any such provision is deemed to be repealed by implication and superseded by the subsequent provision. Otherwise, provisions of above-cited DTA FOMs that remain applicable to the current circumstances of the EA program after the transfer of the EA program to DHCD remain in effect to the extent that they provide guidance for implementation of current EA forms and regulations. No other prior DTA FOMs or DHCD HSNs, aside from those cited above, remain in effect. No other DTA guidance, aside from the above-cited FOMs, applies to the EA program, although DHCD may choose in an individual case to utilize DTA materials, such as the most recent edition of the DTA *Non-Citizen Desk Guide*, for guidance in making EA determinations.

### **Conclusion**

The EA program is now operating under a newly re-numbered set of regulations, although the substantive provisions of the regulations remain largely unaffected. DHS staff should use the tables attached to this HSN in order to determine the parallel provision in the current regulations (760 C.M.R. c. 67) when the old regulatory scheme (106 C.M.R. c.309) is cited in a form, subregulatory guidance, contract, or other document.