

Definition of Programs; Eligibility and Qualifications Requirement; Priorities and Preferences; Income Limits

Types of State-Aided Public Housing and State Rental Assistance:

Elderly/handicapped housing - c. 667 housing managed pursuant to the provisions of M.G.L. c. 121B, §§ 39 and 40 for elderly persons of low income and handicapped persons of low income.

Family housing - c. 200 or c. 705 housing managed pursuant to the provisions of M.G.L. c. 121B, § 34.

AHVP - Alternative Housing Voucher Program

MRVP – Massachusetts Rental Voucher Program

State-Aided Public Housing and State-Assisted Rental Assistance administered by 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. The definition of local housing authority shall include a regional non-profit corporation or other entity under contract to the Department to administer the MRVP or AHVP

Eligibility Requirements

Eligibility requirements for Ch..667 Elderly/Handicapped Housing:

Applicant or household member must be a person of low-income who has reached the age of 60 or over, or is a person of low-income that is handicapped.

To be considered eligible as a handicapped applicant or handicapped household the following must be met:

(1) The definition of handicapped persons of low income is set out in M.G.L. c. 121B, § 1. A handicapped person of low income, as so defined, may have one or more physical or mental impairments, which shall be considered in conjunction with each other if more than one exists.

(2) The LHA shall determine whether non-elderly applicants for elderly/handicapped housing are handicapped persons of low income. Upon request, the applicant shall provide documentation sufficient for the LHA to be able to make a determination of eligibility. Such documentation shall be subject to third party verification. As part of the determination process the following actions and findings are necessary.

(a) The applicant shall provide certification by a physician documenting a physical or mental impairment which is expected to be of long and continued duration but at least for more than six months;

(b) the LHA shall determine that either certain special architectural design features or low-rent housing are not available in the private market and that the applicant is faced with living in an institution or decadent, substandard housing, or paying excessive rents; and

(c) the LHA shall determine an applicant to be of low income if the applicant's household income is within the income limits set for state-aided public housing.

(3) Examples of a person with a qualifying physical impairment which may substantially impede his or her ability to live independently in conventional housing shall include but shall not be limited to a person:

(a) who is confined to a wheelchair;

(b) who, because of the use of braces or crutches, or because of the loss of a foot or leg, or because of an arthritic, spastic, pulmonary or cardiac condition walks with significant difficulty or insecurity;

(c) who, due to a brain, spinal or peripheral nerve injury, suffers from significant coordination deficits;

(d) who is blind within the definition of blindness set out in 111 CMR 5.06(4) or successor regulatory provision;

(e) who is deaf within the definition set out in M.G.L. 6, § 191; or

(f) who has a developmental disability which prevents the person from living totally independently and would benefit from the LHA's specialized housing (such a person may include but is not limited to a person with cerebral palsy, mental retardation, or epilepsy).

Placements are to be made in elderly/handicapped housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The LHA shall place applicants to attain or to sustain these percentages. Placements are made in accordance with any applicable priority and preference categories and the affirmative action preference, if applicable

Eligibility Requirements for Ch. 200 Veterans Family Housing or Ch. 705 Family Housing

A family or household consists of:

(a) two or more persons who live or will live regularly in a unit as their primary residence:

1. whose income and resources are available to meet the household's needs; and
2. who are either related by blood, marriage, or operation of law, or who have otherwise evidenced a stable inter-dependent relationship.

(b) one person.

A household member shall be considered to be living regularly with a family if temporarily absent for reasons such as hospitalization, duty assignment, employment, or school attendance in another location. Upon receipt of notice from the Department of Social Services that one or more children will be reunified with a household member, such child or children, if eligible and qualified, shall be considered household members for purposes of securing a unit of appropriate unit size for the reunified family.

Definitions of Priorities and Preferences:

Priority Categories. The LHA uses the following priority categories in descending order in determining the order of tenant selection:

Priority 1 -Homeless due to Displacement by Natural Forces an applicant, otherwise eligible and qualified, who has been displaced by:

- a. fire not due to the negligence or intentional act of applicant or a household member;
- b. earthquake, flood or other natural cause; or
- c. a disaster declared or otherwise formally recognized under disaster relief laws.

Priority 2- Homeless due to Displacement by Public Action (Urban Renewal) an applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:

- a. any low rent housing project as defined in M.G.L. c. 121B, § 1, or
- b. a public slum clearance or urban renewal project initiated after January 1, 1947, or
- c. other public improvement.

Priority 3- Homeless due to Displacement by Public Action (Sanitary Code Violations) an applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by the State Sanitary Code (105 CMR 410.000)

or local ordinances, provided that:

- a. neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings, and
- b. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

Priority 4- Emergency Case under the Emergency Case Plan established by the LHA in accordance with DHCD regulations which can be found at 760 CMR 5.00

In order to qualify for Priority 1 through 4 an applicant must be Homeless meeting the following definition: :

- (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.

Priority 5- AHVP Participant an applicant, otherwise eligible and qualified, who is living in a non-permanent, transitional housing subsidized by the AHVP.

Priority 6- Transfer for Good Cause.

Priority 7- Standard Applicant an applicant, otherwise eligible and qualified, who does not fit within any of the previous six priority categories.

Preference Categories. Apart from the affirmative action preference to be applied the LHA shall apply the following preferences in descending order within each of the priority categories in determining the order of tenant selection:

(a) Veteran - Any veteran applying for elderly/handicapped housing receives this preference if the applicant resides in the community. A veteran applying for family housing receives this preference in all c. 200 units or, if the LHA has no c. 200 units, in 20% of c. 705 units. In c. 200 and c. 705 units the order of preference is as follows:

1. veterans with service-connected disability;
2. families of deceased veterans whose death was service connected; and

3. other veterans.

Local Resident - a person who has a principal residence or a place of employment in a city or town at the time of application to an 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.

Minority definitions applicable to state-aided and state-assisted housing programs:

- (a) Asian American - with origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands;
- (b) Black - with origins in any of the black racial groups of Africa;
- (c) Hispanic - of Mexican, Puerto Rican, Cuban, Central or South American origin; or
- (d) North American Indian - with origins in any of the original peoples of North America, with cultural identification through tribal affiliation.

Applicant Qualification for Placement

(1) In making its final determination the LHA shall determine if applicant and household members are qualified for public housing. An applicant and the applicant household shall be disqualified for public housing for any of the following reasons:

- (a) The applicant or a household member has disturbed a neighbor or neighbors in a prior residence by behavior, which if repeated by a tenant in public housing, would substantially interfere with the rights of other tenants to peaceful enjoyment of their units or the rights of LHA employees to a safe and secure workplace.
- (b) The applicant or a household member has caused damage or destruction of property at a prior residence, and such damage or destruction of property, if repeated by a tenant in public housing, would have a material adverse effect on the housing development or any unit in such development.
- (c) The applicant or a household member has displayed living habits or poor housekeeping at a prior residence, and such living habits or poor housekeeping, if repeated by a tenant in public housing, would pose a substantial threat to the health or safety of the tenant, other tenants, or LHA employees or would adversely affect the decent, safe and sanitary condition of all or part of the housing.

(d) The applicant or a household member in the past has engaged in criminal activity, or activity in violation of M.G.L. c. 151B §4, which if repeated by a tenant in public housing, would interfere with or threaten the rights of other tenants or LHA employees to be secure in their persons or in their property or with the rights of other tenants to the peaceful enjoyment of their units and the common areas of the housing development.

(e) The applicant or a household member who will be assuming part of the rent obligation has a history of non-payment of rent and such non-payment, if repeated by a tenant in public housing, would cause monetary loss; provided, however, that if the applicant or household member paid at least 50% of his/her household's monthly income for rent each month during a tenancy but was unable to pay the full rent, an eviction for non-payment of the balance shall not disqualify such individual from public housing.

(f) The applicant or a household member has a history of failure to meet material lease terms or the equivalent at one or more prior residences, and such failure, if repeated by a tenant of public housing, would be detrimental to the LHA or to the health, safety, security or peaceful enjoyment of other tenants or of LHA employees.

(g) The applicant or a household member has failed to provide information reasonably necessary for the LHA to process the applicant's application.

(h) The applicant or a household member has misrepresented or falsified any information required to be submitted as part of the applicant's application, or a prior application within three years, and the applicant fails to establish that the misrepresentation or falsification was unintentional.

(i) The applicant or a household member has directed abusive or threatening behavior which was unreasonable and unwarranted towards an LHA employee during the application process or any prior application process within three years.

(j) The applicant or a household member does not intend to occupy public housing, if offered, as his/her primary residence.

(k) The applicant or a household member is 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.

(2) Prior to disqualifying an applicant as stated above, the LHA shall permit the applicant to show mitigating circumstances, which may include rehabilitation or rehabilitating efforts, sufficient so that when the potentially disqualifying behavior is weighed against the mitigating circumstances, the LHA is reasonably certain that the applicant or

household member will not engage in any similar conduct in the future. In making this determination, the LHA shall consider all relevant circumstances including;

- (a) the severity of the potentially disqualifying conduct;
- (b) the amount of time which has elapsed since the occurrence of such conduct;
- (c) the degree of danger, if any, to the health, safety and security of others or to the security of the property of others or to the physical conditions of the housing development and its common areas if the conduct recurred;
- (d) the disruption and inconvenience which recurrence would cause the LHA; and
- (e) the likelihood that the applicant's behavior in the future will be substantially improved.

The greater the degree of danger, if any, to the health, safety and security of others or to the security of property of others or to the physical condition of the housing, the greater must be the strength of the showing that a recurrence of behavior, which would have been disqualifying, will not occur in the future.

Although an applicant or household member may have a history of non-payment of rent and not fit within the exception stated above, mitigating circumstances shall be considered in determining qualification.

(3) In determining whether an applicant is qualified for participation in the AHVP, the LHA shall use the standards and procedures set out above.