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DIVISION OF HOUSING AND COMMUNITY RESOURCES

Homelessness Prevention Program

Proposed Readoption with Amendments: N.J.A.C. 5:41

Proposed New Rule: N.J.A.C. 5:41-1.4

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27C-24, 52:27D-280, and 52:27D-287.2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-175.

Submit written comments by October 6, 2017, to:

Kathleen Asher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625-0800
Fax No.: (609) 984-6696
E-mail: Kathleen.Asher@dca.nj.gov

The agency proposal follows:

Summary

The Homelessness Prevention Program rules, N.J.A.C. 5:41, were scheduled to expire on October 14, 2017, pursuant to N.J.S.A. 52:14B-5.1. As the Department of Community Affairs (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to April 12, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Community Affairs has reviewed these rules and has determined that they continue to be necessary and appropriate for the purpose for which they were originally promulgated.

Under the Prevention of Homelessness Act (1984), N.J.S.A. 52:27D-280 et seq., people who are homeless or in imminent danger of homelessness may receive temporary assistance to enable them to find or retain housing that they will, with temporary assistance, be able to keep once the period of assistance has passed. Unlike the public welfare system, this program is not designed to help those who are chronically in need of assistance and is not funded at a level that would provide the help that such persons are likely to require. The rules include program eligibility requirements and procedures under which homelessness prevention assistance is provided. The chapter is divided into three subchapters. Subchapter 1, General provisions, sets forth the purpose, administration, and waiver provisions. Subchapter 2, Program eligibility, sets forth the eligibility requirements, funding, level and period of assistance, priorities, and administrative hearings. Subchapter 3, Habitability standards, sets forth compliance with housing quality standards set by Housing and Urban Development (HUD).

The proposed amendments are necessary to address specific issues that have arisen through the implementation of the program.

The Department proposes to add new N.J.A.C. 5:41-1.4, Definitions. The Department proposes to add this section to define a New Jersey resident.

The Department proposes amendments to N.J.A.C. 5:41-2.1, Eligibility. Subsection (a) is proposed for amendment to delete "a person or household" and substitute "an applicant" therefor, and add "a New Jersey resident and be" after "must be." References to "person" and/or "household" throughout N.J.A.C. 5:41-2.1 will also be changed to the word "applicant."

Paragraph (a)2 is proposed for amendment to delete the word "and" after the phrase "applicant's control" and substitute a comma therefor, to add the phrase "for non-payment of rent" after the phrase "summons and complaint for eviction," and to add the following language at the end of the paragraph: "which are not more than six months old and bear a docket number and court date, and the applicant will lose their residence within 30 days of the date of application for Homelessness Prevention assistance."

The Department further proposes to add new subsections (j), (k), and (l), to clarify ineligible applicants as being those renting from a family member, those that have resolved the action by entering into an agreement with the landlord (that allows continued residence), and those living in subsidized housing.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments and a new rule have had a positive social impact by assisting applicants who are temporarily unable to obtain or retain housing. Applicants must be either homeless or in imminent danger of losing their home as a result of eviction for non-payment of rent or mortgage foreclosure. The following proposed amendments to N.J.A.C. 5:41-2.1(j), (k), and (l) will have a positive social impact by clarifying who is eligible for assistance and eliminate the submission of ineligible applicants to ensure the assistance is provided to New Jersey residents most at-risk of imminent homelessness. Failure to readopt these rules would have an adverse social impact in that it would eliminate standards and procedures under which homelessness prevention assistance is provided and would thereby contribute to increased homelessness.

Economic Impact

In Fiscal Year 2016, the program spent \$2.6 million to provide assistance to over 1,000 eligible applicants. The proposed amendments to N.J.A.C. 5:41-2.1(j), (k), and (l) seek to efficiently and effectively administer the current funding. The changes impart neither additional duties nor obligations upon applicants. Since all that the rules proposed for readoption with amendments actually add to the statutory requirements is the prescribing of the reporting form, they do not, in and of themselves, impose any costs.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments and a new rule implement State statute and are not subject to any Federal requirements or standards.

Jobs Impact

The rules proposed for readoption with amendments and a new rule would not have any impact upon jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments and a new rule would not have any impact upon the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments and a new rule concern financial assistance to low-income persons and individuals facing homelessness. They do not impose any reporting, recordkeeping, or compliance obligations on "small businesses," as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and a new rule pertain to financial assistance to low income households and individuals facing homelessness. It would be most unlikely to have any impact upon average costs of housing or to affect the affordability of housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and a new rule concern financial assistance to low income households and individuals facing homelessness. It would be most unlikely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:41.

Full text of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:41-1.4 Definitions

As used in this chapter, the following term shall have the following meaning unless the context clearly indicates otherwise.

“New Jersey resident” means an individual whose primary residence is in New Jersey and who has resided in New Jersey for at least six consecutive months prior to applying for homelessness prevention assistance.

SUBCHAPTER 2. PROGRAM ELIGIBILITY

5:41-2.1 Eligibility

(a) To be eligible for assistance under the Homelessness Prevention Program, [a person or household] **an applicant** must be a **New Jersey resident and be either homeless or in imminent danger of losing their home as a result of eviction for non-payment of rent, or mortgage foreclosure, or some other cause which the Department of Community Affairs determines to be comparable.**

1. [A household] **An applicant** shall be deemed homeless if the [household] **applicant** involuntarily is without a place of residence for reasons beyond the [household’s] **applicant’s** control.

2. [A household] **An applicant** shall be deemed to be in imminent danger of homelessness if the [household] **applicant** is unable to make rental or mortgage payments for reasons beyond the [household] **applicant’s** control [and], the [household] **applicant** has been served with a summons and complaint for eviction **for non-payment of rent** or a notice of mortgage foreclosure, as the case may be, **which are not more than six months old and bear a docket number and court date, and the applicant will lose their residence within 30 days of the date of application for homelessness prevention assistance.**

3. (No change.)

(b) No [person or household] **applicant** shall be eligible for assistance if their annualized current income (that is, 52 times current weekly income) exceeds the upper limit of “moderate income” as defined in guidelines published annually by the United States Department of Housing and Urban Development.

(c) No [person or household] **applicant** shall be eligible for assistance unless all other available financial resources have first been exhausted. Concealment or transfer of assets to become eligible for assistance shall result in immediate and permanent disqualification.

(d) No [person or household] **applicant** having a delinquent loan with the Program or which has caused the Program to forfeit a security deposit shall be eligible for additional assistance unless the Department of Community Affairs finds that the delinquency or forfeiture was due to a cause that was either beyond the control of the [person or household] **applicant** receiving assistance, or constituted a violation of the rights of that [person or household] **applicant** by another person, and that the cause of the delinquency or forfeiture is not likely to recur.

(e) No [person or household] **applicant** found in any administrative or legal proceeding, in which notice and an opportunity to be heard have been given, to have committed fraud or abuse in another governmental assistance program, including, without limitation, other programs providing rental subsidies, or to have made a false or misleading statement or a material omission in any submission to the Program, shall be eligible for assistance.

(f) No [person or household] **applicant** already receiving an equivalent housing subsidy under any other program shall be eligible for assistance.

1. (No change.)

(g) No [person or household] **applicant** determined by the Program to be unlikely to pay shelter costs after the period of assistance has ended shall be eligible for assistance.

1.(No change.)

2. No [person or household] **applicant** shall be eligible for assistance with back rent unless they have resided in the housing unit for at least three months prior to falling into arrears.

(h) To be eligible for assistance, [a person or household] **an applicant** must have experienced an uncompensated loss of income or increase in expenses, for a limited period of time, that are necessarily incurred for the preservation of human life. Applicants must submit

documentation verifying that one or more of the following caused the inability to pay housing costs:

1.-6. (No change.)

(i) Assistance to any [person or household] **applicant** facing foreclosure as a result of mortgage or property tax arrearages shall be in the form of a loan, which shall be secured by a recorded mortgage.

1. No [person or household] **applicant** shall be eligible for a mortgage loan unless the home is an owner-occupied single family dwelling (which may be an attached or detached house or a condominium unit) that shall have been owned and occupied by the applicant for at least one year prior to falling into arrears on the mortgage loan or property taxes.

2. No [person or household] **applicant** shall be eligible for a mortgage loan in the event of initiated or ongoing bankruptcy proceedings or in the event that the property is encumbered by more than one mortgage.

3. (No change.)

(j) **No applicant shall be eligible for assistance if the applicant is renting from a family member including: a spouse, parent (including a stepparent), child (including a stepchild), grandparent (including a step-grandparent), grandchild (including a step-grandchild), sister (including a stepsister), brother (including a stepbrother), aunt, uncle, cousin, niece, nephew, mother-in-law, father-in-law, sister-in-law, and brother-in-law.**

(k) **No applicant shall be eligible for assistance if the applicant has resolved the landlord-tenant action by entering into an agreement with the landlord that allows the applicant to remain in their residence. Similarly, no applicant shall be eligible for assistance if the applicant has agreed with their lender to a workout, modification, or refinancing of their mortgage loan that allows them to remain in their residence.**

(l) **No applicant shall be eligible for assistance if the applicant resides in any type of subsidized housing.**

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DIVISION OF HOUSING AND COMMUNITY RESOURCES

State Rental Assistance Program

Proposed Readoption with Amendments: N.J.A.C. 5:42

Proposed New Rule: N.J.A.C. 5:42-2.9

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-287.2.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-170.

Submit written comments by October 6, 2017, to:

Kathleen Asher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625-0800
Fax No.: (609) 984-6696
E-mail: Kathleen.Asher@dca.nj.gov

The agency proposal follows:

Summary

The State Rental Assistance Program rules (SRAP), N.J.A.C. 5:42, was scheduled to expire on October 14, 2017, pursuant to N.J.S.A. 52:14B-5.1. As the Department of Community Affairs (Department) submitted this notice of proposal to the Office of Administrative Law prior to the date, the expiration date was extended 180 days to April 15, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Community Affairs has reviewed these rules and has determined that they continue to be necessary and appropriate for the purpose for which