



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Transitional Assistance
600 Washington Street • Boston, MA 02111

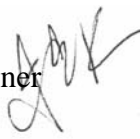
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Commissioner

State Letter 1347
April 17, 2009

To: Department Staff
From: Julia E. Kehoe, Commissioner 
Re: Emergency Assistance Program

This State Letter transmits the following changes to the Emergency Assistance regulations:

- 1) the legal guardian of the EA needy child is included in the list of eligible relatives of the needy child;
- 2) an individual is not eligible for EA benefits if the individual has an outstanding default or arrest warrants from Massachusetts that has not been resolved within 30 days of being notified of the warrant by the Department;
- 3) a household is not eligible for EA shelter benefits if it became homeless because:
 - it abandoned public and/or subsidized housing in the preceding year without good cause. It is not considered abandoning if the household left for good cause which includes, but is not limited to, accepting a job or permanent housing elsewhere, or because of a direct threat to the household's safety;
 - it was evicted from public and/or subsidized housing in the preceding three years for fraudulent behavior.

A household shall not be denied EA for any eviction when the person causing the eviction is no longer part of the household;

- 4) the activities in the EA household's plan for rehousing will include saving 30 percent of the family's net income, unless the placement is in a hotel or motel, there are extraordinary circumstances or the Executive Director of the shelter or his or her designee requests an exemption from the savings requirement upon a showing that it will lead to more rapid rehousing or may make other reasonable changes to the requirement when reassessing the rehousing plan; and provided further, the required amount of savings may be reduced if the household is repaying past debt obligations such as unpaid rent or utilities that may be a bar to obtaining permanent housing;

- 5) the activities in the EA household's plan for rehousing will include taking part in activities leading to self-sufficiency, for 30 hours per week. The self-sufficiency activities shall include, but not be limited to, education and training programs, including attendance at a community college, community service, and substance abuse treatment. The 30 hours shall be reduced or eliminated as a reasonable accommodation for disability or for good cause, including, but not limited to, lack of appropriate child care or transportation, addressing medical issues including mental health issues, domestic violence issues, actual hours spent in housing search, and caring for a newborn under the age of three months. The shelter will reassess regularly the household's rehousing plan; in addition, a child 18 years of age or older must participate in self-sufficiency activities;
- 6) shelter benefits will be terminated when the EA household rejects one opportunity for safe, permanent housing without good cause. Good cause is defined in 106 CMR 701.380 and 309.021(D) and shall also include, but not be limited to, reasons when the housing would require the parent to leave a job that is part of his or her rehousing plan; the housing would interfere with access to critical medical needs of household members, including access to specialty medical providers; the housing would interfere with the special education needs of a child; the housing is in an area in proximity to a domestic abuser, or in an area the household was forced to leave because of safety concerns directed at any member of the household;
- 7) shelter benefits will be terminated when the EA household abandons placement by failing to stay at the placement for two consecutive nights or longer, or has repeated absences from the placement. It shall not be considered an abandoned placement if the absence is authorized by the shelter's Executive Director or the Department's caseworker or for good cause, as defined in 106 CMR 701.380: *Good Cause Criteria* or 106 CMR 309.021(D). Good cause also includes, but not be limited to, a medical emergency or death in the family; and
- 8) the term EA assistance unit has been changed to EA household.

This material is effective April 17, 2009.

MANUAL UPKEEP

<u>INSERT</u>	<u>REMOVE</u>	<u>TRANS. BY S.L.</u>
309.010	309.010	1247
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309.021	309.030	1302
309.040 (1 of 9)	309.040(1 of 9)	1319
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309.040 (4 of 9)	309.040 (4 of 9)	1305
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309.040 (9 of 9)	309.040 (9 of 9)	1325
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309.010: Authority

Emergency Assistance (EA) to needy families with dependent children under the age of 21 or to a pregnant woman without any dependent children shall be made available in accordance with the provisions of 106 CMR 309.000.

309.020: Eligibility

Emergency Assistance may be provided, in accordance with the timetable in 106 CMR 309.050, on behalf of a needy child under the age of 21 or a pregnant woman without any needy children and other members of the household provided the following criteria are met.

(A) The child:

- (1) is living within the EA household. For the purposes of Chapter 309, the EA household consists of the needy child(ren), the parent(s), stepparent or caretaker relative(s) of the needy child, a legal guardian and the siblings (including half-siblings and step-siblings) of the needy child, who themselves are under the age of 21.

In extraordinary circumstances, the Department may include other relatives of the needy child in the EA household with the approval of the TAO Director/designee.

Verification of relationship to the needy child shall be in accordance with 106 CMR 203.585; or

- (2) in the case of a pregnant woman, is an unborn child. For the purposes of Chapter 309, the household consists of the pregnant woman and her spouse. The pregnancy must be verified in writing by a statement from a competent medical authority as defined in 106 CMR 701.600.

- (B) The child or pregnant woman's need has not occurred because the child or pregnant woman or a relative with whom the child or pregnant woman lives refused without good cause, as defined in 106 CMR 701.380: *Good Cause Criteria*, to accept employment or training for employment.
- (C) Emergency Assistance benefits for the household will be denied if the EA applicant or a member of the household reduced his or her earnings from employment or terminated his or her employment within 90 days prior to the month of application without good cause as defined in 106 CMR 701.380: *Good Cause Criteria*.
- (D) Emergency Assistance benefits for the household will be terminated if an EA household member reduces his or her earnings from employment or terminates his or her employment without good cause as defined in 106 CMR 701.380: *Good Cause Criteria*.

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- (E) The household must meet the gross monthly eligibility standards that are based on household size and are adjusted annually based on 130 percent of the Federal Poverty Level. These standards are posted at www.mass.gov/dta and viewed by selecting the *Program Eligibility Charts and Tables* link under Key Resources. Paper copies are available upon request.

Gross income for an EA applicant shall be determined in accordance with 106 CMR 204.210 through 204.230; 204.240(A) and (B); 204.250(A)(2) through 204.250(QQ); and 204.290. Receipt of Lump Sum Income in accordance with 106 CMR 204.240 shall not activate either the requirements of 106 CMR 204.240(C) and (D) or the six-month period of continued shelter benefits as described below in this section. After all applicable exclusions are made in accordance with 106 CMR 204.240(B), the remaining Lump Sum Income shall be treated as an asset in accordance with 106 CMR 309.020(F). TAFDC, EAEDC, and SSI are countable income.

EA benefits will be denied if the applicant household's monthly gross income exceeds the EA eligibility standard for a household of that size.

Excepting the receipt of Lump Sum Income as defined in 106 CMR 204.240, the recipient EA household whose gross monthly income exceeds the EA eligibility standard will continue to receive shelter benefits for six consecutive months after receiving a termination notice based solely on the household's monthly gross income exceeding the EA eligibility standard for a household of that size. The EA household may become ineligible for these continued EA shelter benefits during this six-month period for another reason.

An EA household must escrow the amount of monthly gross income that exceeds the EA eligibility standard during the six-month period. Extended EA benefits will be terminated prior to the end of the six-month period if the EA household fails to verify income, fails to escrow the total excess amount or withdraws some or all of the escrowed funds. The EA household may access the escrowed funds when the EA household moves into permanent housing or the EA household becomes ineligible for extended EA benefits.

Once the EA household's income exceeds the EA eligibility standard the income will not be reevaluated to determine EA eligibility.

In extraordinary circumstances, the TAO Director/designee may extend EA benefits beyond the six-month period. Extraordinary circumstances will be determined by the Department on a case-by-case basis. The loss of income alone will not constitute extraordinary circumstances. Verification substantiating the extraordinary circumstances must be submitted by the EA household.

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- (F) The household's total countable assets do not exceed \$2500. Assets of both TAFDC and non-TAFDC recipients are determined in accordance with 106 CMR 204.120 through 204.140. EA households composed solely of TAFDC recipients are automatically asset-eligible.

The asset limit shall not apply to the household that is participating in the Department's *Local Housing Authority Placement Program*, or to a household with savings as specified in its rehousing plan.

The portion of the household's gross income that is escrowed during the six-month period as described in 106 CMR 309.020(E) is a noncountable asset.

- (G) EA may be provided to or on behalf of an EA household member who is a citizen in accordance with 106 CMR 203.670, an American Indian in accordance with 106 CMR 203.685, a noncitizen in accordance with 106 CMR 203.675, or a noncitizen lawfully admitted for permanent residence or otherwise permanently residing under color of law in the U.S. A household consisting only of noncitizens neither described in 106 CMR 203.675, nor admitted for permanent residence, nor residing under color of law in the U.S. is ineligible for Emergency Assistance benefits.
- (H) No member of the EA household has within one year immediately prior to the filing of an application for Emergency Assistance made an assignment or transfer of real or personal property for the purpose of becoming eligible for Emergency Assistance.
- (I) An EA household is required to report to the Department within 10 calendar days any change in circumstances as specified in 106 CMR 701.420 that may affect its continued EA eligibility. Continued eligibility for EA must be reviewed any time that the Department obtains information indicating a change in the EA household's circumstances and needs more information to determine the exact effect of the change(s) on its continued EA eligibility. The eligibility review shall include a review of all financial and nonfinancial aspects of the EA household's eligibility. The EA household must provide the applicable verifications specified by the Department for continued eligibility.
- (J) If an applicant EA household either fails to appear at the designated placement without good cause as defined in 106 CMR 701.380: *Good Cause Criteria* or 106 CMR 309.021(D) or refuses a placement offered by the Department, the household will be ineligible for EA for the twelve months following the refusal or failure to appear.
- (K) An individual is not eligible for Emergency Assistance benefits if the EA individual has an outstanding default or arrest warrant issued against him or her by any court of the Commonwealth, and the warrant has not been resolved within 30 days of the individual being notified of the warrant by the Department. Evidence of the outstanding default or arrest warrant appearing in the Massachusetts Warrant Management System, or any successor system, shall be sufficient grounds for such action by the Department.

309.021: Other Eligibility Conditions

- (A) Unless otherwise specified in this chapter, the regulations specified in 106 CMR 204, 701, 702 and 706 apply.
- (B) 106 CMR 309.070 contains Department notification requirements and fair hearing rights.
- (C) Eligibility for a particular EA benefit(s) is subject to the circumstances and provision of the verification(s) specified in 106 CMR 309 for the specific benefit at the time of the provision of such benefit.
- (D) In addition to the good cause criteria in 106 CMR 701.380, transportation issues may be claimed as good cause if the EA household fails to appear at the initial temporary emergency shelter placement or any subsequent temporary emergency shelter placement.

309.030: Scope of Assistance

- (A) EA benefits for specific items shall not exceed the amounts specified in this chapter.
- (B) Provision of EA benefits shall be subject to legislative appropriation.

309.039: Housing Assistance Program Services

An EA-eligible household will be referred to the housing assistance program when:

- (A) it has been determined that it may be at risk of losing its current living accommodations; or
- (B) it has been approved for temporary emergency shelter benefits.

The housing assistance program will provide the EA household with the appropriate housing assistance services to assist the EA household in retaining their current accommodations or locating and securing private, public or subsidized housing. These services will be provided by an agency under contract or agreement with the Department.

An EA household that fails to cooperate with housing assistance program services and subsequently becomes homeless as a result of the noncooperation with housing assistance program services is ineligible for temporary emergency shelter benefits, as specified in 106 CMR 309.040(B)(7). An EA household that fails to cooperate with the housing assistance program services while in a temporary emergency shelter will be found to be in noncompliance with the requirements of maintaining temporary emergency shelter as specified in 106 CMR 309.040(E)(1).

309.040: Temporary Emergency Shelter(A) Who is Eligible for Temporary Emergency Shelter

- (1) A household must meet the eligibility criteria specified in this chapter;
- (2) A household must be homeless due to the lack of feasible alternative housing. Feasible alternative housing means any currently available living situation including temporary housing with relatives, friends or charitable organizations;
- (3) A household that appears eligible based on statements provided by the household on a form prescribed by the Department and any other information in the possession of the Department but who needs additional time to obtain any third-party verification shall be placed in shelter for up to 30 days pending the determination of EA eligibility for the household. A placement under this provision shall be treated as an EA shelter benefit.
- (4) An EA household is not eligible to receive EA benefits more than once in a 12-month period unless:
 - (a) the EA benefit received was a rental arrearage;
 - (b) the EA benefit received was temporary emergency shelter and the household left for permanent housing but loses that permanent housing prior to the expiration of the 12-month period and is considered to have a continued need for temporary emergency shelter by demonstrating that the housing into which it moved did not meet the definition of safe, permanent housing as defined in 106 CMR 309.040(D)(2) when the household moved into it;
 - (c) the EA benefit received was housing assistance program services and the EA household cooperated with the services in the housing assistance plan;
 - (d) the EA benefit received was temporary emergency shelter placement which was interrupted when the household left for temporary housing and the move to the temporary housing was approved on a form prescribed by the Department; or
 - (e) the only EA benefit received was temporary emergency shelter as defined in 106 CMR 309.040(A)(3);

If one of these exceptions does not apply, the 12-month period begins on the last day emergency shelter was paid for by the Department.

A household is deemed to have received an EA benefit if the Department has referred the household to a designated placement for EA shelter.

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- (5) A household must verify that their current, and if applicable, their prior living situation, is no longer available to the household and that there is no other feasible alternative housing for the household, by the following:
- (a) a fire or other natural disaster shall be verified by one of the following:
 - 1. a home visit;
 - 2. a written assessment report from the Red Cross Emergency Services Department if a Red Cross unit was present at the scene of the natural disaster;
 - 3. a report signed by a superior officer of the fire department;
 - 4. a report signed by a member of the police or fire arson squad; or
 - 5. a telephone or verbal verification from a member of the Red Cross Emergency Services Department if a Red Cross unit was present at the scene of the fire. The telephone or verbal verification from the Red Cross Emergency Services Department shall be considered a temporary verification and must be followed up with a written assessment within five working days from the Red Cross Emergency Services Department;
 - (b) an eviction shall be verified by written documentation that the judgment for possession of the current residence has been executed and that the landlord refuses to renew the lease with the household;
 - (c) housing that is a threat to the health or safety of the household due to overcrowded conditions or violations of State Sanitary Code shall be verified by written documentation from the local Board of Health, or Code Enforcement Agency, or other agency designated by the Commissioner that either:
 - 1. the dwelling has been determined to be overcrowded in accordance with the State Sanitary Code; or
 - 2. other State Sanitary Code violation(s) have been identified, the time period allowed to correct the violation(s), and that the violation(s) has not been corrected within the specified time as found in the State Sanitary Code regulations found in 105 CMR 410.000 et seq.;
 - (d) housing that is a threat to the health or safety due to reasons other than overcrowding or violations of State Sanitary Code shall be verified by a written assessment from an agency designated by the Commissioner that:
 - 1. a threat exists in the current living arrangement and immediate removal of the household from the living arrangement is required; or
 - 2. a threat existed in the most recent living arrangement that the household left and the household is unable to return because the threat continues to exist or that living arrangement is not available to the household;

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- (e) mistreatment of a household member causing the household to leave its current residence shall be verified by a written signed statement from the agency worker providing social services to the individual or household who was mistreated or a written signed statement from the household that describes the nature of the mistreatment;
- (f) severe medical condition of a household member causing the household to leave its current residence shall be verified by a signed statement from a competent medical authority as defined in 106 CMR 701.600 indicating the nature of the severe medical condition and the medical reason(s) compelling the household to move; or
- (g) if none of the situations described in (a) through (f) describe the reason for the household's homelessness, the household must verify that its current and, if applicable, the prior living situation, is no longer available to the household by providing documentation or information from collateral contacts; and
- (h) a household requesting temporary emergency shelter benefits must also verify the lack of feasible alternative housing with relatives, friends or charitable organizations in accordance with 106 CMR 702.340.

(B) Shelter Ineligibility

A household shall not be eligible for EA temporary emergency shelter benefits if it became homeless:

- (1) for the purpose of making itself eligible for EA;
- (2) for the purpose of obtaining a housing subsidy;
- (3) because it abandoned in the preceding year, without good cause, public and/or subsidized housing, or was evicted from public and/or subsidized housing for nonpayment of rent or fraudulent behavior, provided the eviction occurred within the preceding three years; it shall not be considered abandoning housing if the household left for good cause, including, but not limited to, accepting employment or permanent housing elsewhere, or because of a direct threat to the household's safety; a household shall not be denied EA for an eviction, including for reasons referenced in (4) and (5) below, when the person causing the eviction is no longer part of the household;
- (4) because it was evicted from private, public and/or subsidized housing because of criminal activity, except when the criminal activity was committed by a domestic violence batterer who is no longer part of the household;
- (5) because it was evicted from private, public and/or subsidized housing for destruction of the property;
- (6) because it lost its housing under an agreement for judgment in eviction proceedings brought in whole or in part for the reasons referenced in (3), (4) or (5) above;
- (7) because it failed to cooperate with housing assistance program services provided by an agency under contract or agreement with the Department as specified in 106 CMR 309.039; or

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- (8) because the teen parent age 18 or older was asked to leave three Teen Living Programs for rule violations or other behavior-related issues or the teen parent refuses to accept a placement in a Teen Living Program.

(C) Temporary Emergency Shelter Placements

An EA-eligible household homeless due to the lack of feasible alternative housing in accordance with 106 CMR 309.040(A)(2) shall be approved for temporary emergency shelter. Any temporary emergency shelter placement must be approved by the Transitional Assistance Office Director or designee. Such approval for placement may be withdrawn or temporary emergency shelter benefits terminated if feasible alternative housing subsequently becomes available.

A temporary emergency shelter placement shall also be subject to the following provisions:

- (1) The Department shall make reasonable efforts to locate temporary emergency shelter that will accommodate the physical composition of the entire household, i.e. the size of the household and the age and gender of the household members.
- (2) An EA household requiring temporary emergency shelter shall be placed in an appropriate family shelter, substance abuse shelter or other Department-approved accommodations.
 - (a) An EA household shall be placed in a family shelter when such shelter is available. A room or rooms shall not be considered available if the Department has reserved space for intake cases. Temporary emergency shelter in another approved temporary emergency shelter specified by the Department may be authorized as an interim measure after the Department determines that there is no family shelter with space available.
 - (b) An EA household having a member with a substance abuse problem shall be referred to the Department of Public Health for placement in a substance abuse shelter when such shelter is available. Temporary emergency shelter in another approved temporary emergency shelter specified by the Department may be authorized as an interim measure if the Department of Public Health determines that there is no substance abuse shelter with space available or appropriate for the household needs.
 - (c) If an EA household contains more than one adult (individual 21 or older), the Department may make alternative sheltering arrangements for the additional adult(s) with the approval of the TAO Director/designee.
- (3) The Department-approved family shelter shall be located within 20 miles of the EA household's home community unless the EA household requests otherwise;
- (4) The Department shall make every effort to ensure that a child receiving temporary emergency shelter shall continue attending school in the community in which he or she lived prior to receiving EA unless the EA household requests otherwise.

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- (5) The EA household will be placed in an interim placement, such as shelter beyond 20 miles or a hotel/motel, only if appropriate Department-approved family shelter space is not available. During this interim placement, the EA household must attend the family shelter interview(s) at family shelter(s) specified by the Department. The household shall be advised at the time of placement that:
- (a) it will be transferred from a shelter beyond 20 miles into an appropriate Department-approved family shelter within 20 miles of its community at the earliest possible date unless the EA household requests otherwise; or
 - (b) it will be transferred from another interim shelter into an appropriate Department-approved family shelter at the earliest possible date.

(D) Conditions for Shelter Benefits

- (1) The EA household must make all reasonable efforts that can significantly and directly contribute to the household's ability to find, obtain or retain safe, permanent housing. The EA household placed in temporary emergency shelter must cooperate in the development of and participate in the activities outlined in the EA household's plan for rehousing.
- (2) The plan for rehousing will be developed by the Department representative and the shelter staff person, the housing assistance program worker and the adult members of the EA household. The plan will contain the activities to be performed by the adult members of the EA household that will lead to the EA household's finding safe, permanent housing. A child who is at least 18 years of age must comply with the activities leading to self-sufficiency of the rehousing plan as specified in paragraph (h).

Activities in the plan for rehousing shall include, but are not limited to:

- (a) cooperating with housing assistance program services by actively looking for safe, permanent housing as described in the EA household's plan for rehousing. Safe, permanent housing is housing which:
 - 1. complies with the Sanitary Code;
 - 2. takes into consideration the critical medical needs of the members of the EA household and any domestic violence issues; and
 - 3. the EA household is capable of maintaining indefinitely, considering the totality of the household's circumstances, including the household's income from all sources (including food stamp benefits and child support) in relation to the cost of rent and utilities for the housing, and the cost of meeting the household's nonshelter needs;

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- (b) attending all scheduled meeting with the assigned housing assistance program worker;
 - (c) meeting with the Department representative and the housing assistance program worker;
 - (d) planning the short-term or long-term goals associated with maintaining permanent housing;
 - (e) providing proof of applications for public and subsidized housing and cooperating in providing needed documentation for public or subsidized eligibility determinations;
 - (f) providing documentation as specified by the Department of efforts to obtain safe, permanent housing in the public and private market;
 - (g) saving thirty percent of the household's net monthly income for the purpose of obtaining safe, permanent housing, provided the savings requirement shall not apply when a household is placed in a hotel or motel and shall be reduced in extraordinary circumstances; provided further, the Executive Director of the shelter, or his or her designee, may request an exemption from the savings requirement upon a showing that it will lead to more rapid rehousing or shall make other reasonable changes to the requirement when reassessing the rehousing plan; and provided further, the required amount of savings shall be reduced if the household is repaying past debt obligations such as unpaid rent or utilities that may be a bar to obtaining permanent housing; and
 - (h) taking part in activities leading to self-sufficiency, as specified in 106 CMR 203.400(A)(2) for 30 hours per week, provided this hourly requirement shall be reduced as a reasonable accommodation for those who are disabled; self-sufficiency activities shall include, but not be limited to, education and training programs, including attendance at a community college, community service, and substance abuse treatment; provided the requirement shall be reduced or eliminated for good cause, including, but not limited to, lack of appropriate child care or transportation, addressing medical issues including mental health issues, domestic violence issues, actual hours spent in housing search, and caring for a newborn under the age of three months, and the reasons specified in 106 CMR 701.380: *Good Cause Criteria*; provided further, the shelter shall reassess regularly the household's rehousing plan.
- (3) The Department may transfer an EA household from one Department-approved temporary emergency shelter to another for the efficient administration of the EA program.
- (4) The Transitional Assistance Office Director or designee may notify the Department of Children and Families (DCF) when temporary emergency shelter is approved for an EA household so that DCF may provide appropriate support services. The Transitional Assistance Office Director or designee shall notify the DCF when temporary emergency shelter is terminated.

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- (5) An EA household approved for temporary emergency shelter benefits shall be referred to the housing assistance program to receive the appropriate housing assistance program services. The EA household shall have a Department representative, a shelter staff member, or a staff member from an agency under contract or agreement with the Department assigned to it to assist in the search for safe, permanent housing.

(E) Noncompliance While in Temporary Emergency Shelter

- (1) The EA household shall be considered to be in noncompliance with the requirements for maintaining temporary emergency shelter and will be sent a warning notice as specified in 106 CMR 309.070(A)(3) in the first instance that the EA household does one of the following:
- (a) fails to attend a scheduled family shelter interview without good cause. The following constitutes good cause for failure to attend scheduled family shelter interview(s):
1. A death in the immediate family;
 2. A personal injury or illness that reasonably prevents the person from attending the interview(s);
 3. A sudden and serious emergency as determined by the Department, that reasonably prevents the person from attending the interview(s);

The verification of the good cause for failure to attend a family shelter interview must be provided by the recipient to the Department within three working days of the scheduled interview.

Verification shall include a copy of death notice for 1. above, a written statement from a competent medical authority for 2., a written statement from the recipient for 3. that explains the emergency that prevented the recipient from attending the scheduled family shelter interview(s), or other appropriate verification determined by the Transitional Assistance Office Director;

- (b) is refused admittance to a family shelter because of unreasonable behavior at the interview;
- (c) fails to cooperate in participating in the activities required by the plan for rehousing as specified in 106 CMR 309.040(D)(2) without good cause as defined in 106 CMR 701.380: *Good Cause Criteria* or fails to cooperate in developing a plan for rehousing;

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- (d) the EA household is cited for accumulating three or more violations of reasonable rules established by the temporary emergency shelter, other than a hotel or motel;
 - (e) the EA household is posing a threat to the health or safety of self, other residents, guests and/or staff of the temporary emergency shelter for reason(s) other than engaging in criminal activity(ies);
 - (f) the EA household is cited for one violation of the hotel rules established by the Department or is expelled by the hotel or motel for violation of a reasonable rule.
- (2) In determining whether rules established by the shelter, hotel or motel are reasonable, there is a presumption that any such rule is reasonable.
- (3) The EA household shall be considered to be in noncompliance with the requirements for maintaining temporary emergency shelter and will be sent a termination notice as specified in 106 CMR 309.070(A)(1) when the EA household is determined noncompliant for a second time for one or more of the reasons specified in 106 CMR 309.040(E).
- (4) Pursuant to 106 CMR 309.040(E)(1)(d), (e) or (f), for the first instance of noncompliance, the EA household may be placed in another approved temporary emergency shelter as a result of the noncompliance. A notice of transfer shall be given/sent to the EA household as specified in 106 CMR 309.070(A)(2).

(F) Termination of Temporary Emergency Shelter Benefits

- (1) The EA household shall have its temporary emergency shelter benefits terminated when:
- (a) the EA household is asked to leave a temporary emergency shelter because there is reasonable cause to believe that a member(s) of the EA household is engaging in or engaged in a criminal activity that threatens the health, safety and/or security of self, other residents, guests and/or the staff of the temporary emergency shelter. For the purpose of this regulation the temporary emergency shelter benefits may be terminated on the basis of criminal activity only if the Department concludes by a preponderance of the evidence (more likely than not) that a member of the EA household is engaging in or engaged in criminal activity described;

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- (b) the EA household rejects one opportunity for safe, permanent housing, as defined in 106 CMR 309.040(D)(2), without good cause, as defined in 106 CMR 701.380: *Good Cause Criteria* or 106 CMR 309.021(D); provided that good cause shall also include, but not be limited to, the housing would require the parent to leave a job that is part of his or her rehousing plan; the housing would interfere with access to critical medical needs of household members, including access to specialty medical providers; the housing would interfere with the special education needs of a child; the housing is in an area in proximity to a domestic abuser, or in an area the household was forced to leave because of safety concerns directed at any member of the household. The opportunity of safe, permanent housing must take into consideration the current, critical medical needs of members of the household or any domestic violence issues;
 - (c) the EA household is determined noncompliant for a second time for one or more of the reasons specified in 106 CMR 309.040(E);
 - (d) the EA household either fails to appear at the designated placement without good cause as defined in 106 CMR 701.380: *Good Cause Criteria* and 106 CMR 309.021(D) or refuses the available placement;
 - (e) the EA household abandons the temporary emergency shelter placement. For the purpose of this section, the EA household shall be deemed to have abandoned placement if it fails to stay at the placement for two consecutive nights or longer, or has repeated absences from the placement. It shall not be considered an abandoned placement if the absence is authorized by the shelter's Executive Director, or his or her designee, or the Department's caseworker or for good cause, as defined in 106 CMR 701.380: *Good Cause Criteria* or 106 CMR 309.021(D); provided further, good cause shall include, but not be limited to, a medical emergency or death in the family;
 - (f) feasible alternative housing becomes available to the EA household; or
 - (g) the EA household is no longer categorically or financially eligible for EA benefits. However, a recipient who is financially ineligible due to income in excess of the EA Eligibility Standard will continue to receive shelter benefits for six months, if otherwise eligible.
- (2) The EA household shall be sent a timely notice of termination in accordance with 106 CMR 309.070.

309.047: Other Services

When appropriate, the following services provided by the Department or by groups operating under interagency agreements or contract with the Department shall be available to members of EA-eligible households.

- (A) Information Services, to give EA households written and verbal data about benefits and programs designed to help the households with emergency situations. Such programs and benefits are offered by public and private agencies.
- (B) Referral Services, to make arrangements for EA households to receive the additional benefits and services the EA households need.

309.070: Notification Requirements and Fair Hearing Rights - EA

The rights and procedures governing fair hearings, as specified in Chapter 343, apply to the EA program, except to the extent that they are inconsistent with 106 CMR 309.070, in which case the provisions of 106 CMR 309.070 apply.

(A) Notification Requirements

The Department shall send written notification of approval, denial, noncompliance and/or termination of EA benefits to the EA household.

- (1) When the Department determines that it is necessary to terminate EA temporary emergency shelter benefits, the Department shall send the EA household written notice of termination on a form prescribed by the Department. This notice shall be sent to the address of record. Unless otherwise notified in writing by the EA household, the Department will use the last shelter address as the address of record. This notice must be sent at least 10 calendar days in advance of the proposed termination date. This notice shall specify:
 - (a) the reason(s) why the EA household is being terminated; and
 - (b) the date the shelter benefits will be terminated.
- (2) When the EA household is being transferred from one temporary emergency shelter to another temporary emergency shelter, the Department will give or send the EA household a written notification of the transfer. Changing the placement of an EA household from one temporary emergency shelter to another temporary emergency shelter shall be considered a continuance of EA benefits. This transfer notice shall only be given at the time of the change of placement. This notice does not have to meet the requirements of 106 CMR 343.140. The written notice issued pursuant to this section shall be adequate as defined in 106 CMR 343.200(A).
- (3) When the Department determines that the EA household has a first instance of noncompliance with the requirements of maintaining temporary emergency shelter as described in 106 CMR 309.040(E)(1), the Department shall send a written warning notice of the noncompliance to the EA household. This noncompliance notice shall specify:
 - (a) the reason(s) why the EA household is determined to be in noncompliance;
 - (b) that another instance of noncompliance shall result in the termination of the temporary emergency shelter benefits in accordance with 106 CMR 309.040(F); and
 - (c) that the EA household may request a face-to-face interview with a Department worker to discuss its noncompliance.

This notice does not have to meet the requirements of 106 CMR 343.140. The written notice issued pursuant to this section shall be adequate as defined in 106 CMR 343.200(A).

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- (4) When the Department places an EA household in a temporary emergency shelter placement or transfers an EA household from one temporary emergency shelter placement to another temporary emergency shelter, the Department shall provide notice of the EA household's right to appeal:
- (a) whether the Department made reasonable efforts to locate temporary emergency shelter that will accommodate the physical composition of the entire household, i.e. the size of the household and the age and gender of the household members pursuant to 106 CMR 309.040(C)(1);
 - (b) whether the Department failed to place the EA household in an available Department-approved temporary emergency shelter within 20 miles of the EA household's home community;
 - (c) whether the Department made every effort to ensure that a child continues attending school in the community he or she lived prior to the EA shelter placement, unless requested otherwise; and
 - (d) whether the Department transferred the EA household placed in temporary emergency shelter beyond 20 miles of the EA household's home community back to an appropriate Department-approved temporary emergency shelter within 20 miles of the EA household's home community at the earliest possible date.

(B) Right to a Fair Hearing

- (1) An EA applicant or recipient may appeal:
- (a) the failure of the Department to provide any temporary emergency shelter benefits available under 106 CMR 309.040;
 - (b) the termination of temporary emergency shelter benefits pursuant to 106 CMR 309.040(F). The EA household has the right to appeal the termination based on his or her assertion that the event(s) specified by the Department as the reason(s) for the termination has not occurred;

Only one appeal pursuant to 106 CMR 309.040(F) may be requested by the EA household. The EA household may remain in the placement pending the fair hearing decision only with the permission of the temporary emergency shelter;
 - (c) whether the Department made reasonable efforts to locate temporary emergency shelter that would accommodate the physical composition of the entire household, i.e. the size of the household and the age and gender of the household members pursuant to 106 CMR 309.040(C)(1);
 - (d) whether the Department placed the EA household in an available Department-approved temporary emergency shelter within 20 miles of the EA household's home community pursuant to 106 CMR 309.040(C)(3), unless requested otherwise;
 - (e) a finding of the first instance of noncompliance made pursuant to 106 CMR 309.040(E)(1) based only on the EA household's assertion that the events specified by the Department as the reasons(s) for the noncompliance did not occur;

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- (f) whether the Department has transferred the EA household to a placement within 20 miles of its home community at the earliest possible date, unless requested otherwise; or
 - (g) whether the Department has made every effort to ensure that a child continues attending school in the community he or she lived prior to the EA shelter placement, unless requested otherwise.
- (2) The appeal request must be received by the Division of Hearings within 21 calendar days of the date of the notice of the Department's proposed action, findings of noncompliance, or placement. There shall be no waiver of the requirement that the Division of Hearings receive requests for an appeal filed pursuant to this section within 21 calendar days of the date of the notice.

Appeals based on 106 CMR 309.070(B)(1)(f) may be filed at any time after placement in a temporary emergency shelter more than 20 miles from the EA household's home community.

A timely appeal request is one received by the Division of Hearings within the timely notice period of 10 days, as specified in 106 CMR 309.070(A)(1). A timely appeal of termination request will result in aid pending the appeal decision.

- (3) Other than in the circumstances specified in 106 CMR 309.070(B)(1), EA applicants and recipients may not appeal the Department's decision as to the type, location or particular temporary emergency shelter provided or the Department's decision to change the temporary emergency shelter placement.
- (4) The EA household shall be given written and/or oral notice of the date, time and place of the hearing. Such notice shall be communicated so as to allow receipt by the EA household at least two working days prior to the hearing date.
- (5) There shall be an expedited hearing and an expedited fair hearing decision for all appeals of temporary emergency shelter decisions including initial placement(s), findings of noncompliance, transfer(s) and termination(s). A decision may be implemented by the Department three working days after the decision is mailed to the household. An applicant or recipient may not have the hearing postponed, continued, or rescheduled without good cause as specified in 106 CMR 343.320(D). The verification of good cause for failure to appear for a hearing must be provided by the recipient within five working days of the scheduled hearing.
- (6) Temporary emergency shelter benefits continued pending an appeal decision shall be in a shelter designated by the Department. The EA household may remain in the temporary emergency shelter placement location occupied on the date of the appeal pending the fair hearing decision with the approval of the shelter provider.
- (7) When the subject of the appeal is an extension of shelter benefits beyond the six-month period under 106 CMR 309.020, the hearing officer shall not substitute his or her judgment for that of the Regional Director and TAO Director. Such actions may only be overturned by a hearing officer if it is found that the Regional Director and TAO Director have abused their discretion when making the determination on the extension request.