



Commonwealth of Massachusetts
**EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES**

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

Public Housing Notice 2024-07

To: All Local Housing Authority Executive Directors
From: Ben Stone, Undersecretary of Public Housing and Rental Assistance
Subject: Promulgation of Amendments to 760 CMR 6.00
Date: May 16, 2024

Need to Know:

- EOHLC will promulgate amendments to its occupancy standards and tenant participation regulation, 760 CMR 6.00.
- These amendments, which go into effect on June 7, 2024, edit or replace:
 - certain definitions contained in the regulation,
 - make significant changes to the way rent is determined,
 - increase funding for Local Tenant Organizations, and
 - update lease obligations to correspond with changes in the law, among other things, as more particularly described below.
- Implementation of 760 CMR 6.00 is effective June 7, 2024 for initial lease up, interim determinations, and annual rent redeterminations.
- Updated Heat Deduction Schedule
- Revised Rent Calculation Worksheet
- Revised Continue Occupancy Form
- EOHLC will conduct a Webinar June 5, 2024 at 10:00AM– see link below.

EOHLC will promulgate amendments to its regulation at 760 CMR 6.00: Occupancy Standards and Tenant Participation for State-Aided Housing. These amendments will be published and effective June 7, 2024, See implementation section for details.

EOHLC promulgates these regulations following extensive outreach and consultation with stakeholders and a public comment period. EOHLC has not made any changes from the draft regulations posted for comment on January 5, 2024. A copy of the new regulation to be promulgated on June 7, 2024 is attached as Attachment A.

EOHLC promulgates these regulations to:

- promote economic mobility for residents of state-aided public housing;
- encourage training and educational opportunities for residents of state-aided public housing;
- support state-aided public housing families who need personal care to remain independent;
- help ease the financial strain experienced by residents of state-aided public housing with disabilities;
- support veterans and their families;
- reduce administrative burden for residents and LHAs; and
- encourage and promote resident engagement.

To accomplish these goals, numerous changes have been made to 760 CMR 6.00. These changes are described below.

IMPLEMENTATION TIMELINE:

This regulation will be published and effective June 7, 2024. If the LHA sends Notice of Rent Change and attached Lease to the Tenant by LHA prior to June 7, 2024, the LHA is not required to re-calculate rent. The updated regulation may cause certain tenants to request an interim re-determination. A tenant may request an interim re-determination when their adjusted income increases by 10% or decreases by any amount or as a result of these changes. All interim re-determinations are to be calculated in accordance with the new regulation.

June 7, 2024 forward: Any initial lease up, new interim rent re-determination or annual rent re-determination, implement as follows:

Example 1: New lease up effective after June 7, 2024:

- New Tenant has received Notice of Rent and Lease completed in accordance with version of 760 CMR 6.00 that exists prior to June 7, 2024 – No action required, LHA is not required to retroactively re-calculate rent.
- LHA is in the process of rent determination and lease up, but Notice of Rent and Lease have not been sent to the New Tenant, the LHA must complete rent determination in accordance with 760 CMR 6.00, effective June 7, 2024.
- New lease-ups follow 760 CMR 6.00, effective June 7, 2024.

Example 2: Annual rent re-determination has been completed and tenant has received Notice of Rent Determination and Lease Addendum in accordance with the old version of 760 CMR 6.00 that existed before June 7, 2024. No action required; LHA is not required to re-calculate rent.

Example 3: Annual rent determination is started by LHA before June 7, 2024, but has not been completed, Notice of Rent Determination or Lease have not been sent to Tenant, LHA must complete in accordance with 760 CMR 6.00, effective June 7, 2024.

For additional information on implementation, see the Implementation Calendar attached as Attachment B.

EOHLC will conduct a webinar on June 5, 2024, at 10:00AM on the changes to the rent calculation. Please join us at this link:

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AMENDMENTS TO DEFINITIONS

Two of the new amendments alter definitions contained in 760 CMR 6.03. The amendments replace the definition of "Full-time Student" with a new definition of "Half-time Student" and revise the definition of "Personal Care Attendant (PCA)".

- **Definitions – Half-time Student - 760 CMR 6.03:** The old definition of Full-time Student has been replaced with a new definition of Half-time Student.

Previously: 6.03 previously contained a definition of Full-time Student, which corresponded to an exclusion of wages and/or salary of Full-time Students contained in 760 CMR 6.05(3)(k).

To qualify as a Full-time Student and claim the exclusion contained in 6.05(3)(k), an individual must have been: (i) a Household Member; (ii) between the ages of 18 and 25; (iii) a dependent of another Household Member; and (iv) carrying a course load that is considered full-time for day students under the standards of the institution.

Full-time Student status remained in effect as long as the individual claiming Full-time Student status carried a Full-time Student course load, but in no event lasted longer than the length of time normally required for day students to complete the required course of study.

Now: The amendments replaced the definition of Full-time Student contained in 6.03 with a new definition of Half-time Student, which corresponds to a new amendment to 760 CMR 6.05(3)(k) excluding wages and/or salary of Half-time Students.

To qualify as a Half-time Student, an individual must be: (i) a Household Member; (ii) between the ages of 18 and 26; (iii) a dependent of another Household Member; and (iv) carrying a course load that is considered at least half-time for students under the standards of the institution. Where an institution does not have a formal half-time program, the individual claiming Half-time Student status must be enrolled in a course load that is at least half the course load that would be required for a full-time student in the same field of study.

Half-time Student status shall remain in effect so long as the individual claiming Half-time Student status carries at least a half-time course load, but in no event shall last longer than twice the length of time normally required for full-time students to complete the required course of study, with the possibility to extend Half-time Student status for an additional 2 years with verification from the institution of ongoing credit attainment.

Important Note: Full-time Students also qualify for this exemption. Student must have **at least** a half-time course load.

- **Definitions - Personal Care Attendant (PCA) - 760 CMR 6.03:** The definition of PCA has been expanded to allow Household Members to serve as a PCA for another Household Member.

Previously: The definition of PCA previously contained in 6.03 prevented a Household Member from serving as another Household Member's PCA.

Now: The prohibition on Household Members serving as PCAs has been removed, so that a Household Member may serve as a PCA for another Household Member.

Additionally, new language has been added to the definition of PCA to clarify that a full-time live-in PCA may receive permission for continued occupancy of the unit as a remaining member of the Family (Household) once the Household Member with a disability to whom the PCA was providing services ceases to occupy unit.

In order to be considered a remaining member of the Family (Household), the full-time live-in PCA must meet the criteria for remaining members of the Family (Household) contained in 760 CMR 5.03: Family (Household)(b).

AMENDMENTS TO DETERMINATION OF GROSS HOUSEHOLD INCOME

Many of the new amendments change how gross household income and net household income are determined by making changes to: (A) inclusions in gross household income; (B) exclusions from gross household income; and (C) deductions from gross household income.

(A) Amendments to Inclusions in Gross Household Income

- **Assets - 760 CMR 6.05(2)(c):** The amendments to 6.05(2)(c) make no changes to the way in which assets are calculated. However, the amendments raise the dollar threshold for imputing assets.

Previously: When a household had marketable real or personal property with a fair market value exceeding \$5,000, gross household income included the higher of the actual income derived from the asset or a percentage of the asset. Such percentage was tied to the passbook savings rate put in place by the Department of Housing and Urban Development.

Now: When a household has marketable real or personal property with a fair market value exceeding **\$25,000**, gross household income includes the higher of the actual income derived from the asset or a percentage of the asset. Such percentage is set at one percent or as otherwise determined by **EOHLC**.

- **Contributions or Gifts - 760 CMR 6.05(2)(f):** The amendments to 6.05(2)(f) simplify the way in which income is included from contributions or gifts.

Previously: Contributions or gifts were included in gross household income when they occurred in two or more consecutive years or exceeded \$2,000 in a single year.

Now: Contributions or gifts are considered in gross household income when they exceed **\$5,000** in the aggregate in a **12-month period**. LHAs should total all contributions or gifts received by the household and include only the amount that exceeds \$5,000 in gross household income.

- **Payments Received for the Support of a Household Member - 760 CMR 6.05(2)(h):** The amendment to 6.05(2)(h) expands the inclusion of payments received to include all Household Members, not just minor children.

Previously: Only payments received for support of a minor were included in gross household income.

Now: Payments received for the support of **any** household member, whether or not a minor, are included in gross household income.

(B) Amendments to Exclusions from Gross Household Income

- **Volunteer Stipends - 760 CMR 6.05(3)(h):** The amendments to 6.05(3)(h) expand the exclusion of stipends for volunteers.

Previously: Only payments or stipends received by participants in a program that was part of the Domestic Volunteer Service Act of 1973 were excluded from gross household income. There was no cap on the amount of the exclusion.

Now: Payments or stipends received by volunteers for activities performed on behalf of a tax-exempt non-profit organization or foundation or an accredited educational or vocational institution are excluded from gross household income. **The exclusion is capped** at the amount which would be earned by an individual working 20 hours per week at minimum wage. As of this PHN, that cap is \$300/week and \$15,600/year.

- **Employment Training and Apprenticeship Programs - 760 CMR 6.05(3)(j)**: The amendments to 6.05(3)(j) expand the exclusion of payments associated with participation in employment training programs to apprenticeship programs.

Previously: Only payments associated with participation in a *bona fide* program providing training for employment were excluded from gross household income. There was no cap on the amount of the exclusion.

Now: Payments associated with participation in a *bona fide* program providing training for employment **AND** wages received through programs for training for employment or apprenticeships are excluded from gross household income. **The exclusion is capped** at the amount which would be earned by an individual working 37.5 hours per week at one- and one-half times the minimum wage (\$43,875/year as of this PHN) and the exclusion may only be claimed by a Tenant or Household Member for a period of two years.

- **Wages and/or Salary of Half-time Students - 760 CMR 6.05(3)(k)**: The amendments to 6.05(3)(k) update the student wage exclusion to correspond to the change to 6.03 replacing the definition of Full-time Student with Half-time Student.

Previously: Wages and/or salary earned by a Full-Time Student were excluded from gross household income.

Now: Wages and/or salary earned by an **at least** Half-Time Student is excluded from gross household income. This means both Full-time and Half-time students qualify.

- **Income of a Live-In Personal Care Attendant (PCA) - 760 CMR 6.05(3)(l)**: The amendments to 6.05(3)(l) expand the exclusion of income of a live-in PCA to include family member PCAs.

Previously: Income of a live-in PCA was only excluded from gross household income if the live-in PCA was not a family member and the PCA's income was not available for the needs of any household members.

Now: Income of all live-in PCAs, whether or not the live-in PCA is a family member and whether or not the PCA's income is available for the needs of household members, is excluded from gross household income.

- **Senior Wage Exclusion - 760 CMR 6.05(3)(p)**: The amendments to 6.05(3)(p) expand the exclusion of compensation received by Tenants and Household Members over the age of 62.

Previously: Only wages or salary earned by a Tenant or Household Member 62 years of age or older were excluded from gross household income. The exclusion was capped at the amount which would be earned by an individual working 20 hours per week at minimum wage.

Now: Wages, salary, and income received from unemployment insurance, worker's compensation, and short-term and long-term disability received by a Tenant or Household Member 62 years of age or older are excluded from gross household income. The exclusion remains capped at the amount which would be earned by an individual working 20 hours per week at minimum wage. As of this PHN, that cap is \$300/week and \$15,600/year.

- **Achieving a Better Life Experience (ABLE) Accounts - 760 CMR 6.05(3)(r)**: The amendments add a new exclusion at 6.05(3)(r) for contributions to and withdrawals from ABLE accounts established pursuant to 26 U.S.C. § 529A.

Previously: There was no exclusion for contributions to or withdrawals from ABLE accounts.

Now: Contributions to, and withdrawals from, ABLE accounts established pursuant to 26 U.S.C. § 529A are excluded from gross household income.

- **BRAVE Act Annuity Payments - 760 CMR 6.05(3)(s)**: The amendments add a new exclusion at 6.05(3)(s) for annuity payments made to certain disabled veterans pursuant to the BRAVE Act (M.G.L. c. 115, § 6B).

Previously: There was no exclusion for annuity payments made to certain disabled veterans pursuant to the BRAVE Act contained in 760 CMR 6.00. However, pursuant to Public Housing Notice 2018-24, LHAs should already be excluding payments made pursuant to the BRAVE Act.

Now: Annuity payments made pursuant to the BRAVE Act to certain disabled veterans or to the parents or non-remarried surviving spouses of such veterans who are deceased are excluded from gross household income.

(C) Amendments to Deductions from Gross Household Income

- **Child Support, Separate Support, and/or Alimony - 760 CMR 6.05(4)(g):** The amendment to 6.05(4)(g) expands the deduction for child support, separate support, or alimony to include support to all children, whether or not the child is a minor.

Previously: The deduction for child support, separate support, and/or alimony paid under court order was only deducted if it was for the support of a minor child not residing within the household.

Now: The deduction for child support, separate support, and/or alimony paid under court order is deducted if it supports any child not residing in the household, **whether or not the child is a minor.**

- **Non-reimbursable Payments of Tuition and Fees - 760 CMR 6.05(4)(h):** The amendments to 6.05(4)(h) expand the deduction for non-reimbursable payments of tuition and fees.

Previously: Only non-reimbursable payments of tuition and fees of vocationally related post-secondary education were deducted from gross household income. The deduction was limited to individuals who were not full-time students. The deduction, combined with deductions in 6.05(4)(f) and (g) could not exceed gross income.

Now: Non-reimbursable payments of tuition and fees of vocational or post-secondary education are deducted from gross household income. The deduction is available for all students, regardless of course load. This deduction, combined with deductions in 6.05(4)(f) and (g) still cannot exceed gross income.

AMENDMENT TO LHA OBLIGATIONS

Two of the new amendments change LHA obligations to Tenants and Household Members, specifically as to the obligation to re-key locks and as to the treatment of overincome households.

- **Obligation of LHA to Re-Key Locks - 760 CMR 6.06(4)(r):** To align with a corresponding change in state law (M.G.L. c. 186, § 26), the amendment to 6.06(4)(r) updates LHA obligations to re-key locks for Tenants or Household Members under an imminent threat of domestic violence, rape, sexual assault, or stalking.

Previously: LHAs were required to re-key locks promptly upon request of a Tenant or Household Member who had obtained a restraining order against another Household Member on account of domestic violence. The LHA was

required to waive the costs of re-keying the locks where circumstances warranted.

Now: LHAs are required to re-key locks within forty-eight hours upon request of a Tenant or Household Member who is under an imminent threat of domestic violence, rape, sexual assault, or stalking. If the threat of domestic violence, rape, sexual assault, or stalking is posed by a person who is a Tenant or Household Member, the LHA may only re-key the locks and deny a key to the alleged perpetrator if the request to re-key locks is supported by a valid protective order. If the threat of domestic violence, rape, sexual assault, or stalking is posed by a person who resides outside the victim's household, the LHA shall re-key locks even if the request is not accompanied by a valid protective order. The LHA is still required to waive the costs of re-keying locks where circumstances warrant.

- **Obligations to Over-income Households - 760 CMR 6.06(6)(f):** The amendment to 6.06(f) makes the discretionary six (6) month exemption for over-income households mandatory and allows LHAs to extend the exemption for an additional six (6) months.

Previously: LHAs could, but were not required, to allow households who became over-income to remain in their unit for a period of six (6) months following the household becoming over-income.

Now: LHAs are **required** to allow households who become over-income to remain in their unit for a period of six (6) months and may, but are not required, to extend the over-income exemption for an additional six (6) months.

AMENDMENT TO LOCAL TENANT ORGANIZATION (LTO) FUNDING

- **LTO Funding - 760 CMR 6.09(3)(c):** The amendment to 6.09(3)(c) increases funding for LTOs from \$6 to \$25/unit.

Previously: Upon request, LHAs were required to fund LTOs at an annual rate of \$6 per state-aided public housing unit occupied or available for occupancy by residents represented by such LTOs or an annual rate of \$500, whichever was more.

Now: Upon request, LHAs are required to fund LTOs at an annual rate of **\$25** per state-aided public housing unit occupied or available for occupancy by residents represented by such LTOs or an annual rate of \$500, whichever is more.

The process for LTO funding is found in 760 CMR 6.09(3)(c) and in the current Fiscal Year 2024 Budget Guidelines, PHN 2023-14 (See section titled: Budget Line Item: Operating Expenses, line item 4191 on page 36.)

To receive funds, the LTO must submit a budget which details ordinary and necessary business expenses and authorized activities. The amended LTO funding is effective June 7, 2024. To receive an increase in funding, LTOs must submit a revised budget for LHA approval that reflects the increase in LTO funding authorized by the revision of 760 CMR 6.09(3)(c). Once an LTO budget is approved by the LHA, the LHA will then disburse the revised LTO funding. The LHA should account for the LTO increase in any budget revision. No action is required if the LTO's budget would not increase based upon the new per occupied unit funding.

HEAT DEDUCTION SCHEDULE UPDATE

While not part of 760 CMR 6.00, EOHLC is taking this opportunity to update the heat deduction schedule.

This update doubles the standard deduction (from \$500 to \$1000 for a 2 Bedroom unit), and also adds an additional deduction for households paying for electric heat. This recognizes the higher cost of electric versus gas heating, even with efficient equipment such as Air Source Heat Pumps. See Attachment C for updated heat deduction schedule, effective on same timeline as other changes to rent calculation.

Attachment A: Rent Regulation to be Promulgated, June 7, 2024

Attachment B: Implementation Chart

Attachment C: Updated Heat Deduction Schedule

Attachment D: Rent Regulation Update PowerPoint

Attachment E: Updated Rent Calculation Worksheet

Attachment F: Continued Occupancy Form