

DEPARTMENT OF HUMAN SERVICES

Adoption of Amendments to and Compilation of the Hawaii
Public Housing Authority Section 8 - Housing Choice Voucher
Emergency Rules Relating to COVID-19 Emergency

September 17, 2020

SUMMARY

Hawaii Administrative Rules, entitled "Hawaii Public
Housing Authority Section 8 - Housing Choice Voucher Emergency
Rules Relating to COVID-19 Emergency"

Hawaii Public Housing Authority
Section 8 - Housing Choice Voucher Emergency Rules Relating to
COVID-19 Emergency

S8-§1	Findings
S8-§2	Purpose
S8-§3	Authority
S8-§4	Applicability
S8-§5	Definitions
S8-§6	Interim Rent Adjustment
S8-§7	Initial inspections
S8-§8	Voucher briefing
S8-§9	Payment standard
S8-§10	Housing assistance payment contract execution
S8-§11	Absence from the unit
S8-§12	Automatic termination of HAP contract
S8-§13	Findings to Extend Hawaii Public Housing Authority Emergency Rules Relating to COVID-19 Emergency
S8-§14	Extension
S8-§15	Waiting list

Historical Note: This adoption of Hawaii Administrative Rules, entitled "Adoption of Amendments to and Compilation of the Hawaii Public Housing Authority Section 8 - Housing Choice Voucher Emergency Rules Relating to COVID-19 Emergency" is to amend Hawaii Public Housing Authority Section 8 - Housing Choice Voucher Emergency Rules Relating to COVID-19 Emergency, Hawaii Administrative Rules, adopted April 16, 2020, and filed with the Office of the Lieutenant Governor on May 12, 2020, and renewed and extended for an additional 113 days after September 9, 2020, by Adoption of Extension of Hawaii Public Housing Authority Section 8 - Housing Choice Voucher Emergency Rules Relating to COVID-19 Emergency on September 2, 2020, and filed with the Office of the Lieutenant Governor on September 8, 2020, pursuant to Hawaii Revised Statutes sections 91-3(b) and 91-4(b)(2).

S8-§1 **Findings.** The authority finds that:

(a) The Governor of the State of Hawaii has determined and proclaimed that the COVID-19 pandemic in the State of Hawaii is an emergency contemplated by section 127A-2 and 127A-14, Hawaii Revised Statutes ("HRS"), and that this emergency continues, as evidenced by his Proclamation dated March 4, 2020, and

Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, and March 31, 2020 ("Emergency Proclamations");

(b) Section 127A-2, HRS, defines "emergency" as "any occurrence, or imminent threat thereof, which results or may likely result in substantial injury or harm to the population or substantial damage to or loss of property";

(c) There is an occurrence of a severe and extraordinary event that constitutes a public health emergency which continues to evolve and spread around the globe and is now spreading in the community which has caused damages, losses and suffering of such character and magnitude to affect the health, welfare, and living conditions of a substantial number of persons, and is anticipated to affect the economy of the State of Hawaii as the Governor has declared through his Emergency Proclamations;

(d) By Supplementary Proclamation dated March 16, 2020, the Governor directed all state agencies and officers to cooperate with and suspend statutes related to any administrative procedures in Chapter 91, HRS in order for state agencies to more effectively provide emergency relief and engage in emergency management functions as may be required to assist in all efforts to address the objectives of his proclamation;

(e) As the authority agrees with the Governor that the ongoing COVID-19 pandemic is of such magnitude to warrant protective action, the authority finds it must provide emergency relief to its Section 8 - Housing Choice Voucher Program participants who lost employment or income due to the COVID-19 emergency;

(f) This emergency rule provides financial relief assistance to the authority's Section 8 - Housing Choice Voucher program participants by allowing interim rent adjustments to be effective on the day the participant's employment and corresponding income were lost due to the COVID-19 emergency in the State of Hawaii;

(g) Based on the above, there is an imminent peril to the public health, safety or morals, caused by the COVID-19 pandemic statewide requiring immediate adoption of this emergency rule upon less than thirty days' notice of hearing; and

(h) These findings are based on the Board's personal knowledge and professional experiences.

S8-§2 **Purpose.** These emergency rules are adopted based on the findings in section S8-1 to respond to the COVID-19 emergency declared by the Governor and enable the authority to provide certain financial relief to participating families in the authority's Section 8 Housing Choice Voucher Program due to the COVID-19 emergency.

S8-§3 **Authority.** These rules are adopted pursuant to section 91-3, HRS.

S8-§4 **Applicability.** Notwithstanding Chapter 15-185 Section 8 - Housing Choice Voucher Program, and any subsequent repeal or revisions, these rules shall apply to the authority's Section 8 Housing Choice Voucher Program participants and modify certain sections in Chapter 15-185; provided that upon expiration of these emergency rules, these rules shall terminate.

S8-§5 **Definitions.** (a) All definitions provided in these rules shall be the same as those provided in chapter 356D, HRS and Chapter 15-185 unless an expanded definition is provided specifically by these rules.

(b) As used in these rules:

"Authority" means the Hawaii public housing authority.

"Board" means the board of the directors of the Hawaii public housing authority.

S8-§6 **Interim Rent Adjustment.** (a) Section 15-185-33 is suspended. While Section 15-185-33 is suspended, this section shall apply.

(b) The authority may adjust a participant's rent between reexaminations if a participant reports a change in income.

(c) Adjustments reflecting a lower rent shall be made effective as of the date the participant's income decreased due to the COVID-19 emergency. A participant who has obtained a decrease in rent under this section shall report all income increases which occur prior to the next reexamination and rent may be readjusted accordingly.

(d) A rent adjustment shall be made between reexaminations when a participant's income increases as a result of the inclusion of additional persons with income to the family, and such adjustment shall be made effective on the first day of the second month following the inclusion.

(e) The participant and owner shall be notified in writing by the corporation of the results of any reexamination within a reasonable time.

S8-§7 **Initial inspections.** (a) The authority may execute a HAP contract on a dwelling unit that fails the initial

inspection required under section 15-185-42, provided such failure was the result of only non-life-threatening deficiencies, and corrections are made within the HUD allowed time period, without affecting the housing assistance payment.

S8-§8 Voucher briefing. The authority may use alternative methods to conduct voucher issuance oral briefings required by section 15-185-29 provided these alternative methods shall not be conducted beyond July 31, 2020.

S8-§9 Payment standard. In addition to payment standard rules set forth in section 15-185-55, the authority may apply a payment standard increase at any time (e.g., interim reexamination or owner rent increase) after the effective date of the increase in the payment standard amount, provided the increased payment standard is used to calculate the HAP no later than the effective date of the participant's first regular reexamination following the change.

S8-§10 Housing assistance payment contract execution. (a) The authority shall execute a HAP contract no later than 120 days from the beginning of the lease term provided the contract is executed no later than July 31, 2020.

(b) On or after August 1, 2020, the authority shall use best efforts to execute the HAP contract before the beginning of the lease term and execute the HAP contract no later than 60 days from the beginning of the lease term. Any HAP contract executed after the 60-day period is void and the authority shall not pay any housing assistance payments to the owner.

S8-§11 Absence from unit. The authority may continue to provide housing assistance payments when a participant is absent from the unit more than 180 consecutive calendar days due to extenuating circumstances, provided the absence from the unit does not extend beyond December 31, 2020. Extenuating circumstances include but are not limited to hospitalization of participant, extended stays at nursing homes, or caring for family members.

S8-§12 Automatic termination of HAP contract. Should the participant's income increase to the extent that the housing assistance payment is reduced to \$0 (zero dollars), the authority will not automatically terminate the HAP contract 180

days after the last housing assistance payment to the owner. Instead of automatic termination, the authority, upon written notice to the owner and participant, may extend the period of time following the last payment to the owner beyond the normally applicable 180 days.

S8-13 Findings to Extend Hawaii Public Housing Authority Emergency Rules Relating to COVID-19 Emergency.
The authority finds that:

(a) Governor David Y. Ige declared a state of emergency in the State of Hawaii due to COVID-19 by issuing an Emergency Proclamation on March 4, 2020, that was extended by Supplementary Proclamations, most recently on August 20, 2020, which extended the emergency through September 30, 2020;

(b) The authority agrees with the Governor that the ongoing COVID-19 pandemic is of such magnitude to warrant protective action, the authority finds it must provide emergency relief to its Section 8 - Housing Choice Voucher Program participants who lost employment or income due to the COVID-19 emergency;

(c) These emergency rules provide financial relief assistance to the authority's Section 8 - Housing Choice Voucher program participants by allowing interim rent adjustments to be effective as of the date the participant's income decreased due the COVID-19 emergency; and

(d) These emergency rules enable the authority to delay or suspend program requirements as allowed under HUD Notice PIH 2020-05 regarding COVID-19 Statutory and Regulatory Waivers for the Public Housing, Housing Choice Voucher, Indian Housing Block Grant and Indian Community Development Block Grant Programs, Suspension of Public Housing Assessment System and Section Eight Management Assessment Program dated April 10, 2020, issued by HUD to public housing agencies ("PIH Notice 2020-05"). In PIH Notice 2020-05, HUD waived and established alternative requirements for numerous statutory and regulatory requirements for the Housing Choice Voucher program, pursuant to the authority provided to HUD under the Coronavirus Aid, Relief and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020).

S8-14 Extension. Based on the authority's findings set forth in section 8-13, the authority is renewing and extending Hawaii Public Housing Authority Section 8 - Housing

Choice Voucher Emergency Rules Relating to COVID-19
Emergency, adopted April 16, 2020, and filed with the Office
of the Lieutenant Governor on May 12, 2020, for an additional
113 days after September 9, 2020.

S8-15 **Waiting list.** (a) Section 15-185-26 and the
authority's Section 8 Administrative Plan, Chapter 4-III, in
part where applicable, are suspended. While Section 15-185-26
and the Section 8 Administrative Plan, Chapter 4-III are
suspended, this section shall apply.

(b) The authority shall maintain a separate waiting list
for each of its housing choice voucher or project-based voucher
programs.

(c) Placement on the waiting list may be by:

(1) Date and time; or

(2) Lottery selection, so long as all adopted preferences
are considered.

(d) Applicants shall be notified of the opportunity to
apply for vouchers and of the procedure to be used to be placed
on the waiting lists through notices posted in a conspicuous
place at the authority's offices that accept applications, the
authority's website, and printed statements in the authority's
informational material on its application process.

(e) The notice to open the waiting list shall include
information on what procedure shall be used to place applicants
on the waiting list, how to apply, the date and time of the
lottery selection and the number of applicants that will be
selected by the lottery.

(f) The authority may accept applications from applicants
with a preference, without a preference, or a combination of
both which will be specified in the notice of opening of the
wait list.

(g) Applicants that are selected for placement on the
waiting list shall be notified in writing of their selection on
the waiting list within ten business days. Applicants that are
not selected by the lottery shall be informed in writing of
their non-selection for placement on the waiting list within ten
business days.

(h) Selection of applicants from the waiting list shall be
based upon:

(1) A randomly assigned number based on the number of
applicants that were selected by the lottery; or

(2) Date and time of the application; and

(3) Applicable local preference.

(i) An applicant must notify the authority, at least
annually, of any change that may affect the applicant's place on
the waiting list and the authority's ability to contact

applicant. Changes include, but are not limited to, familial status, financial status, mailing address and current residence.

(j) An applicant may continue to be on the waiting list even though the applicant is a tenant in or receiving housing assistance from another housing program.

(k) Applications for the housing choice voucher program will be active for eighteen months from the date of placement on the waiting list and then will expire. Applicants on the waitlist at eighteen months will receive a letter informing them that their application has expired within ten business days.

(l) Should the authority open the waiting list for applicants with local preferences, any applicant who is unable to verify their qualifications for meeting the preference within 10 business days may be removed from the waiting list.

(m) Applicants who were either not selected to participate in the lottery, or whose application has expired, will not qualify for an informal hearing.

DEPARTMENT OF HUMAN SERVICES
Hawaii Public Housing Authority Emergency Rules
Relating to COVID-19 Emergency

Amendments to and compilation of the Section 8 - Housing Choice Voucher Emergency Rules Relating to COVID-19 Emergency, Hawaii Administrative Rules, were adopted on September 17, 2020, by the Hawaii Public Housing Authority Board of Directors at its board meeting with prior public notices provided in accordance with section 92-7, Hawaii Revised Statutes, and with abbreviated notice and hearing pursuant to section 91-3(b), Hawaii Revised Statutes.

The rules shall take effect upon filing with the Office of the Lieutenant Governor for a period of not longer than 105 days after September 17, 2020 unless extended in compliance with section 91-3(b), Hawaii Revised Statutes.



ROBERT J. HALL, Chairperson
Board of Directors
Hawaii Public Housing Authority

Pursuant to my Proclamation dated March 4, 2020, and Supplementary Proclamations dated March 16, 2020, March 21, 2020, March 23, 2020, March 31, 2020, April 17, 2020, April 25, 2020, May 5, 2020, May 18, 2020, June 10, 2020, July 17, 2020, August 6, 2020, and August 20, 2020 relating to COVID-19, I approve these rules.

APPROVED:



DAVID Y. IGE
Governor
State of Hawaii
Dated: 10/13/2020

APPROVED AS TO FORM:



Deputy Attorney General

Filed

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