

Rent Freeze Basics for Public and Subsidized Housing Tenants Who Go to Work

A Guide for Massachusetts Community Service Providers

This is a supplement to the tenant information guide:

*Massachusetts Public and Subsidized Housing Tenants:
Know Your Rights! Get a Rent Freeze When You Go to Work*



Massachusetts Public and Subsidized Housing Tenants: Know Your Rights!

Get a Rent Freeze When You Go to Work

- Do you live in public housing or have a Section 8 voucher?
- Do you worry that if you work, your rent will go up?

You may not need to worry! If you go to work, you could get a break on your rent. If you qualify for a *rent freeze* your rent will not go up for at least a year even though your income goes up.

This guide will help you figure out if you qualify for a rent freeze.



Introduction

Many people who receive public benefits are reluctant to go to work because they fear losing these benefits. And individuals who live in public or subsidized housing often have additional concerns about the impact an increase in their income will have on their housing.

For some tenants, *rent freeze* incentive policies can minimize the impact that increased earnings will have on rent. Under a rent freeze, when an **eligible** tenant gets a job after a period of unemployment, the rent will stay flat—that is, not go up—for a period of time. Most tenants do not know about these policies.

Understanding and using these housing work incentives can be overwhelming and confusing. The rules differ depending on the type of housing a tenant has, and the rules vary within each of the different housing programs. Figuring the incentives out can be especially challenging for tenants with disabilities, who may need assistance and advocacy to obtain a rent freeze.

This publication includes supplemental information for community service providers to be used along with the accompanying tenant’s guide. Together these provide practical, user-friendly information about rent freeze policies and the rules that apply to them. The tenant’s guide is also available as a separate publication, and includes letters to assist tenants in requesting a rent freeze.

This guide was written by:

Amy Copperman, Attorney, Massachusetts Law Reform Institute
Barbara Siegel, Attorney, Disability Law Center
Melanie Jordan, Institute for Community Inclusion/UMass Boston

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For more information, contact:

Publications Office
Institute for Community Inclusion
UMass Boston
100 Morrissey Blvd.
Boston, MA 02125



617/287-4300 (voice); 617/287-4350 (TTY)

Visit the ICI website to read or download this guide - www.communityinclusion.org

This publication will be made available in alternate formats upon request.

Q:

What is a rent freeze?

Why is it important that tenants in government-funded housing think about their rent when their income increases?

A:

Many public and subsidized housing programs have rules that allow tenants who start working to get a break on their rent. These rules were created for people who are poor or have a disability to encourage them to seek work. Some rules apply only to tenants with disabilities; some are available to any tenant. Some rules apply only to tenants who have previously received some kind of government benefit; others simply require a period of unemployment prior to starting a job.

The details of the rules, including what the rule is called, differ by housing program. The rule may be called *rent freeze*, *earned income exclusion*, or *self-sufficiency incentive*. For simplicity's sake, this packet groups them all under the term *rent freeze*.

Regardless of the different names and eligibility requirements, the principle is the same across all programs: when eligible public and subsidized housing tenants go to work after a period of unemployment, **their rent will not change, despite an increase in earnings** for a specified period of time.

The supplement *Massachusetts Public and Subsidized Housing Tenants: Know Your Rights! Get a Rent Freeze When You Go to Work* publication provides a detailed description of each type of rent freeze, broken down by housing program. It will help you and tenants identify which type of rent freeze they may be eligible for.

In most subsidized housing programs, rents are set as a percentage of the household's income. So whenever a household's income goes up, so does the rent. Similarly, rents go down if a household loses income. A rent freeze can help offset the expense of going to work, encouraging a tenant to take a job without having to worry about their housing costs. For a detailed description of how rents are established in different major housing programs, go to www.masslegalhelp.org/housing.

Q:

What are the different types of government-funded housing programs?

A:

There are three basic types of government-funded housing programs in Massachusetts that help make rents more affordable for people with low or moderate incomes.

- ☉ **Public Housing.** Public housing is owned and run by a **local housing authority**. The housing authority is the landlord. (A few public housing developments are managed by private companies but still owned by housing authorities.) There are state and federal housing programs; both offer rent freezes.
- ☉ **Vouchers.** A voucher provides financial assistance to help people find apartments in the private market. This is also called a **tenant-based subsidy**, because the subsidy stays with the tenant, not with a particular development. Tenants with disabilities who have a Section 8 voucher (also called a Housing Choice voucher) are eligible for a rent freeze. Section 8 is a federally funded program. There is also a rent freeze option for tenants who have state-funded vouchers.
- ☉ **Privately Operated Subsidized Housing.** This type of subsidized housing is owned and managed by a private landlord or a for-profit or nonprofit corporation that has received government subsidies to provide affordable housing. This type of housing is also called a **project-based subsidy**, because the subsidy stays with the unit, not a particular tenant. Affordable apartments are often in the same developments as market-rate apartments. **Typically, there are no rent freezes for tenants in privately operated subsidized housing.**

For a detailed description of the different housing programs in Massachusetts, consult *Legal Tactics: Finding Public and Subsidized Housing*. This book is available electronically at www.masslegalhelp.org and can be purchased through Massachusetts Continuing Legal Education at www.mcle.org.

Within these three types of housing, there are many different affordable housing programs—each with its own rules. **It is important to know the specific type of housing and program a tenant lives in to figure out which rules apply.**

Q:

How do I know which program the tenant is in?

Does a tenant have to have a disability to get a rent freeze?

A:

There are several steps you can take to determine what kind of housing a tenant lives in. To determine the difference between **state** and **federal** public housing, check the lease and any forms, such as the income verification form. If you see phrases such as *federal public housing*, *U.S. Department of Housing and Urban Development*, or *HUD*, the tenant probably lives in federal public housing. If you see words such as *state-assisted housing*, *Department of Housing and Community Development*, or *DHCD*, it is probably Massachusetts state public housing.

If the state/federal distinction isn't clear from the lease or other forms, contact the tenant organization, if there is one. Finally, perhaps the most direct way is to contact the property manager or housing authority and ask. It is perfectly reasonable to ask these questions, because it can be confusing to determine the housing program type.

Tenants must have a disability to qualify for rent freeze if they:

- Have a **Section 8** voucher or
- Live in an apartment funded by the **Housing Opportunity for People with AIDS program (HOPWA)**, the **Supportive Housing Program**, or the **HOME Investment Partnerships Program**

Tenants who live in public housing may qualify for a rent freeze even if they do not have a disability.

To qualify for a rent freeze, tenants are considered to have a disability if:

- They get SSI or SSDI disability benefits, or are eligible for SSI or SSDI but do not currently get cash benefits because they are working or
- They receive services from the Department of Mental Health, the Department of Mental Retardation, the Massachusetts Rehabilitation Commission, the Massachusetts Commission for the Blind, or the Massachusetts Commission for the Deaf and Hard of Hearing

A tenant who does not receive any disability-related government benefits or services **may still be eligible** for the disability rent freeze. However, they will have to prove their disability status to the housing administrator. Specifically, tenants have to show that:

continued on the next page

Q:

Does a tenant have to have a disability to get a rent freeze?

(continued)

How can I tell if a tenant receives SSI, SSDI, or both?

A:

- They have a physical, mental, developmental, or emotional impairment that is expected to last a long time and limits one or more major life activities (such as walking, breathing, seeing, hearing, learning, or working) **or**
- They have a history of a disability or are seen as having a disability

If a tenant does not receive disability benefits or services, one of the best ways to demonstrate a disability is to get a doctor or other health care professional to write a letter on the tenant's behalf describing the disability and how it limits major life activities.

Under these rules, drug or alcohol dependence on its own does not count as a disability.

SSI and SSDI are disability benefits from the Social Security Administration. The basic difference between the two:

- SSI is a needs-based benefit with strict income and asset guidelines
- SSDI is an insurance program that people qualify for by working and paying into the Social Security system (through FICA taxes)

People can receive one or the other, or both. Many people do not know which benefit(s) they receive. The easiest way to find out is to look at the notices the tenant gets from Social Security. SSI notices have *Supplemental Security Income* written at the top of the page. SSDI notices have *Retirement, Survivors, and Disability Insurance* or *Disability Insurance Benefits* at the top of the page.

If there are no notices to check, the tenant should contact Social Security at 800-772-1213 or go to the local Social Security office to find out what benefit(s) they receive. You can also request this information from Social Security with a signed release from the tenant. A *Consent for Release of Information* form (SSA-3288) is available online at www.ssa.gov.

Much more information about SSI and SSDI is available online at www.masslegalservices.org in the "disability" section and at the Social Security website, www.ssa.gov. You can also learn about SSI and SSDI from the Disability Law Center: 617-723-8455 (voice), 617-227-9464 (TTY), 800-872-9992 (toll-free).

Q:

Q: Is eligibility for a rent freeze affected by the type of Social Security benefits a tenant receives?

A:

YES. The rent freeze in state public housing, the Massachusetts Rental Voucher (MRVP) subsidy program, and the Alternative Housing Voucher (AHVP) subsidy program only applies to tenants whose **government benefits decrease** as a result of work. Whether a tenant receives SSI, SSDI, or both can make a difference in a tenant's eligibility for a rent freeze.

SSDI

Tenants on SSDI get a nine-month trial work period. During this time SSDI benefits do not decrease at all, no matter how much the tenant earns. After these nine months, there is a three-year period where employed SSDI beneficiaries either get their entire SSDI check or no check at all, depending on whether they go over the monthly earning limit set by Social Security for that year. The monthly earning limit is called the substantial gainful activity (SGA) level. In 2007, SGA is \$900 per month before taxes. (This is adjusted each year.) A tenant who earns less than SGA will not have a decrease in government benefits and will not be eligible for a rent freeze. **In order to qualify for a rent freeze, tenants in state housing programs who get SSDI must be past their nine-month trial work period and earn more than SGA.**

SSI

It is easier for a tenant on SSI to qualify for the state rent freeze than a tenant who only receives SSDI. SSI benefits decrease based on the amount a person earns. Social Security counts only about half of a person's income each month, and lowers the SSI check by that amount. As the benefit check drops, the rent freeze can kick in.

Because of the differences between SSI and SSDI, it is important to try to find out what benefits a tenant receives if the person is in a state housing program and might qualify for a rent freeze.

For more information about the SSI and SSDI work rules, see www.masslegalservices.org/cat/1041. This website also has a link to the *Social Security Red Book on Work Incentives*.

The Institute for Community Inclusion has an easy-to-use publication called *Going to Work: A Guide to Social Security Benefits and Employment for Tenants with Disabilities*, which can be found at www.communityinclusion.org under the "Social Security" topic.

Additional resources are listed in the "get help" section of the tenant's guide.

Q:

Where can I find more information about rent freeze rules?

A:

Federal Public Housing

The federal regulation for this rule is at 24 Code of Federal Regulations (CFR) § 960.255. You can find a link to that regulation online at www.masslegalservices.org/cat/1404. In addition, the federal Department of Housing and Urban Development (HUD) has a detailed question-and-answer document about the federal rule. You can find that at www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm.

Section 8 Voucher Program

The federal regulation for this rule is at 24 Code of Federal Regulations (CFR) § 5.617. You can find that regulation online at www.masslegalservices.org/cat/1404. In addition, the federal Department of Housing and Urban Development (HUD) has a detailed question-and-answer document about this rule. You can find that at www.hud.gov/offices/pih/phr/about/ao_faq_eid.cfm.

For additional information about the rent freeze in federal public housing and the Section 8 Voucher Program, check the National Housing Law Project website at www.nhlp.org/html/pubhsg/eid_packet.htm.

State Housing Programs

The state regulation for this rule is at 760 Code of Massachusetts Regulations (CMR) § 6.05(3)(i). You can find that regulation online at www.mass.gov/dhcd/regulations/effect.htm. The MRVP [760 CMR § 49.05(6)(a)(2)] and AHVP [760 CMR § 53.06(1)] regulations refer to this rule as well.

This is meant to be used as a supplement only.

**Be sure to read
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