

Part 1

Emergency Assistance

Eligibility

1 What is Emergency Assistance (EA)?

Emergency Assistance (EA) is a state program that provides certain families with children and pregnant people experiencing homelessness in Massachusetts with:

- Emergency shelter
- Financial help to access private housing

Currently, most families eligible for EA are also eligible for housing-related assistance called HomeBASE, or the Short-Term Housing Transition (STHT) program.

HomeBASE benefits include:

- Up to \$30,000 over twenty-four months, to be used for rent or utility arrears, with flexibility to provide families additional time and funding beyond the general benefit caps
- Payments to allow a family experiencing homelessness to stay with another household
- First and last month's rent and security deposit
- Moving and furniture expenses
- Other costs to allow a family to become or remain housed.

To get HomeBASE, you must first be found eligible for Emergency Assistance, so it is important to complete an EA application even if you only want HomeBASE. HomeBASE is available to help you avoid going into shelter or to help you leave shelter.

See 760 CMR 67 (EA regulations, under the Code of Massachusetts Regulations): <https://www.mass.gov/regulations/760-CMR-6700-eligibility-for-emergency-assistance-ea>

See also 760 CMR 65.00 (HomeBASE regulations): <https://www.mass.gov/regulations/760-CMR-6500-the-massachusetts-short-term-housing-transition-program>

2 Where can you apply for EA?

The Executive Office of Housing and Livable Communities (EOHLC), through its Division of Housing Stabilization (DHS), runs the EA program, and EOHLC workers are located in some Department of Transitional Assistance (DTA) offices and take EA applications there. As of October 2023, EOHLC is encouraging applicants to apply by telephone.

The EA application line phone number is **866-584-0653**. See **Appendix A**.

Typically, families can apply for EA at the ten joint EOHLC/DTA offices listed in **Appendix A** between 8 a.m. and 4 p.m. each weekday. You may want to call the office to confirm the hours for that day. The FY24 budget requires EOHLC to maintain office locations in the ten cities and towns that had local offices as of January 1, 2023.

Advocacy Tips:

- ✓ You should call or go to your local EOHLC/DTA office as early in the morning as possible since the application process often takes all day. This also applies to telephone applications, when you may be asked to wait for a call back. If you do not receive a call back within one hour and need shelter that day, keep calling back. Be sure to specify that you do not have a place to stay that night.
- ✓ EOHLC should take your application the same day you go to apply. If an EOHLC worker tries to send you away without taking your application and you need a place to stay right away, ask to speak to an EOHLC Supervisor or contact an advocate immediately.
- ✓ EOHLC should ask you which language you prefer to communicate in when you apply. If they do not ask, tell the EOHLC worker your preferred language. If you speak Spanish or another common language, you have the right to receive important documents, including the application, in your language. You have the right to get free oral interpretation from EOHLC.
- ✓ EOHLC may try to discourage you from applying for EA by suggesting that you stay with friends or relatives. If you have no safe place to go and you appear to meet eligibility rules based on your own statements and other information EOHLC has, you have a right to be placed in EA shelter right away. *See Questions 12 and 13.*
- ✓ If you apply for EA but EOHLC says you are not eligible, EOHLC should give you a written denial notice that explains why you were denied and that you have a right to appeal. *See Question 21.* You have the right to apply for shelter, even if the worker suggests you will not be eligible. It is important to get the reason for denial in writing, especially if you want to ask for an appeal. EOHLC sometimes denies families for an incorrect reason, so it is important to get the reason for the denial in writing. Once you receive a written notice of denial, you

can appeal the denial, or show the notice to an advocate for advice and assistance.

- ✓ EOHLC does not take EA applications at every DTA office. This may violate state law. St. 2009, c. 27, § 142. If this causes a problem for you, contact an advocate.

3 Which families experiencing homelessness are eligible for EA?

EA is available for some:

- Children under age 21 who are experiencing homelessness and their families, including parents, stepparents, other close relatives or legal guardians who are primary caretakers of the child/ren, and/or
- Pregnant people at any stage of pregnancy who are experiencing homelessness, and the pregnant person’s spouse, *See* 760 CMR 67.02(1) and
- Who meet financial and other eligibility rules. *See* **Questions 4-11**.

Note: EOHLC has said that you do not need to be married to qualify as a “spouse” or “stepparent”; they can include persons with whom the parent or pregnant person is “involved as a couple in an inter-dependent relationship that is intended to be long-term.” *See* Housing Stabilization Notice 2011-02 available at

<https://www.mass.gov/files/documents/2016/07/ti/hsn201102.pdf>

4 What is the EA income limit?

For applicants. To be eligible for Emergency Assistance as an applicant, your family’s gross monthly income must be below 115% of the federal poverty limit for your family size. The federal government usually increases the amount slightly in January or February of each year.

For participants. Starting in FY20, the Legislature raised the maximum income level for families already in EA shelter to 200% of the poverty level. Participant families are not considered over income until they have exceeded 200% of the poverty level for 90 consecutive days.

As of January 2023, the EA income eligibility standards are:

Household Size	EA Eligibility for Applicants: 115% of Federal Poverty Level (monthly)	EA Eligibility for Participants: 200% of Federal Poverty Level (monthly)
1	\$1,397	\$2,430
2	\$1,890	\$3,287
3	\$2,382	\$4,143
4	\$2,875	\$5,000
5	\$3,368	\$5,857
6	\$3,860	\$6,713
7	\$4,353	\$7,570
8	\$4,845	\$8,427
Add’l	\$493 add’l household member	\$857 add’l household member
<p>Remember: These limits usually change each January or February so make sure you are using the most recent numbers. You can check for updates at https://www.mass.gov/info-details/housing-stabilization-notice</p>		

EA considers your gross income, which is your total income before any tax withholdings or other deductions. *See* 760 CMR 67.02(5). If you are working, EOHLC usually asks for your last 4 pay stubs if you are paid weekly or last 2 pay stubs if you are paid every other week. Since most months are not exactly 4 weeks long, to calculate your income EOHLC takes your last 4 weekly pay stubs, adds them together, divides by 4, then multiplies that amount by 4.333; or, it takes your last 2 biweekly pay stubs, adds them together, divides by 2, and then multiplies that amount by 2.167. This is the number they generally will use for your monthly gross income.

Weekly pay:	Biweekly pay:
1. Add together last 4 paystubs	1. Add together last 2 paystubs
2. Divide total by 4	2. Divide total by 2
3. Multiply by 4.333	3. Multiply by 2.167

Note: If you are applying for EA and you expect your income to go down soon, EOHLC should use the best estimate of income for the next month. For example, if you expect your hours or pay to be reduced, tell EOHLC and get a letter from your employer that says what your future hours and pay will be.

See 106 CMR 702.920, DTA regulations incorporated into EA regulations through 760 CMR 67.02(5)(b) and 106 CMR 204.290. Note that the DTA regulation numbers changed in 2018 and EOHLC recently updated their regulations to reflect these changes. The referenced regulations can now be found at 106 CMR 704.210 through 704.230; 106 CMR 704.240(A) and (B); 106 CMR 704.250(A)(2) through 704.250(QQ); and 106 CMR 704.290. While 106 CMR 702.290 no longer exists in the DTA transitional cash assistance program regulations, 106 CMR 704.290(A) now incorporates that income is to be counted prospectively: “Eligibility and grant amount are based on the filing unit's **projected income at the time of application** or when a change is reported. **Projected income must be based on the best estimate of income that actually will be**

received in the cyclical month in which action will be taken on the application or the change.”

Families should not give up earned income *for the purpose* of qualifying for shelter. Reducing earned income without good cause within 90 days of a shelter application can result in a denial of shelter. 760 CMR 67.02(3) and **Question 10**. If families lose income due to homelessness, such as loss of childcare or employment, EOHLC should consider that reduction in income to be “good cause” for losing earned income. Note that families can give up unearned income for the purpose of qualifying for shelter. *See Question 5* for a list of what income does and does not count for EA.

Families receiving EA who go over income. If you are receiving EA shelter benefits and your gross income goes over the EA eligibility standard for 90 consecutive days or more, you can continue to receive benefits for six more months from the day you went over income before being terminated from the program (unless you become ineligible for another reason). Beginning with the FY20 budget, the Legislature changed the income limit for families who are already receiving EA shelter to 200% of the federal poverty level. You will not be subject to the over-income termination if your income goes back under 200% of the poverty level within 90 days. *See* HSN 2019-2 at

<https://www.mass.gov/files/documents/2019/09/06/200%25%20of%20FPG%202019.pdf>

and HSN 2023-1 at <https://www.mass.gov/doc/housing-stabilization-notice-2023-1-revised-federal-poverty-guidelines/download>

If you are over income for 90 consecutive days or more, in order to receive shelter for six months from the date you went over income, you:

- Must save the amount of income that is over the income limit (this is in addition to what you must save under your EA Rehousing Plan; *see Question 16*),

- May not withdraw the saved money until you leave shelter (except to pay costs directly related to getting permanent housing or for other purposes approved by your EOHLC worker), and
- Must follow all other EA rules. *See* 760 CMR 67.02(5)(d)-(f).

In special situations, EOHLC may extend your EA benefits beyond the six months, even if your income is over the limit for more than 90 days. *See* 760 CMR 67.02(5)(g). Ask your EOHLC worker if you need more time to find housing.

For families receiving HomeBASE. If you are receiving HomeBASE benefits and your gross income goes over the EA eligibility limit, you can continue to receive HomeBASE for 12 months after your income exceeds the EA limit as long as you are complying with your stabilization plan (*see* **Question 16**). The Legislature changed the HomeBASE over-income rules in the FY23 state budget. As of October 2023, EOHLC has not issued updated regulations.

Advocacy Tips:

- ✓ Before you use any of the money you are required to save while in shelter, ask your EOHLC worker or your shelter provider if the spending is allowed and try to get approval in writing.
- ✓ One-time “lump sum” income, such as a personal injury settlement, does not cause a period of ineligibility for EA as it does for Transitional Aid to Families with Dependent Children (TAFDC). *See* 760 CMR 67.02(5)(b).

5 What income is and is not counted for EA?

The EA income rules are generally based on the income rules for the Transitional Aid to Families with Dependent Children (TAFDC) program,

but some things count as income for EA that do not count for TAFDC. *See* 760 CMR 67.02(5)(b), citing portions of 106 CMR 204.

■ Income that is counted for EA includes:

➤ **Earned income includes:**

- Wages
- Tips
- Salary
- Self-employment income minus business expenses, *see* 106 CMR 204.210(A), and

➤ **Unearned income, including:**

- Social Security
- Unemployment compensation
- Veteran's benefits
- Income from trusts. *See* 106 CMR 204.210(B).

Note: Income that is counted for EA but not for TAFDC includes Supplemental Security Income (SSI), TAFDC, Emergency Aid to the Elderly, Disabled and Children (EAEDC), and all child support actually received by the household. *See* 760 CMR 67.02(5)(b).

■ Income that is not counted for EA includes:

- Foster care payments you receive for a foster child
- Food stamps (SNAP)
- Federal higher education (college level) grants, loans and work study

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- Other higher education grants and scholarships that cannot be used to meet current living expenses
- Any loan that cannot be used to meet current living expenses
- Training stipends up to \$130 per month
- Reimbursements for training expenses
- YouthBuild or AmeriCorps earnings or payments to participants
- Earnings of a child under 14
- Certain restricted cash gifts from persons who are not financially responsible for anyone in the EA household
- Assistance from social service or other organizations.

Historically, when DTA administered EA, it took the position that the following payments were non-countable (since EOHLC relies on the DTA regulations, EOHLC now should take the same position):

- For certain tenants: Up to \$7,500 in relocation payments received to leave a foreclosed property plus additional amounts you can verify are being used for relocation expenses, *see* DTA Transitions, January 2008, p. 7, *available at* <https://www.masslegalservices.org/system/files/library/Jan+08+Transitions.pdf>,

and

- For certain homeowners: Payments from a reverse mortgage (a loan that allows a homeowner to withdraw equity from property). *See* DTA Transitions, April 2007, pp. 4-5, *available at* <https://www.masslegalservices.org/system/files/library/April+07+Transitions.pdf>.

This is not a complete list of non-countable income. The regulations describe over 30 types of non-countable income, so check the regulations

for a more complete list. *See* 106 CMR 204.250org(A)(2) through (QQ), cited in 760 CMR 67.02(5)(b).

6 What is the asset limit for EA?

EOHLC currently is imposing an asset limit of \$5,000 for families applying for and participating in the EA program. That means you generally must have less than \$5,000 of “countable assets” to qualify for EA.

- Some families are not subject to (or automatically meet) the EA asset limit. These include:
 - Families in shelter who have saved the money required by their EA Rehousing Plans (*see* **Question 16**)
 - Households in which all members receive TAFDC.

For families subject to the asset limit, some assets count and others do not.

- Assets that **do** count include:
 - Cash on hand
 - Bank accounts you have access to
 - As of July 1, 2019, the value of vehicles owned by the household except for the value of one non-recreational vehicle
 - The cash surrender value of life insurance and burial insurance
 - Real estate other than a home you live in, unless it qualifies for a six-month exclusion because you are trying to sell it.
- Assets that **do not** count include:

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- The value of one non-recreational vehicle owned by the household
 - Household and personal belongings
 - Assets you do not have ready access to (such as assets tied up in court proceedings or real estate you cannot immediately sell)
 - Earned Income Tax Credit in the month of receipt and the following month
 - Assets used to produce income, such as a vehicle used for self-employment
 - Up to \$7,500 in relocation payments received by a tenant to leave a foreclosed property, *see* DTA Transitions, January 2008, p. 7
 - The assets of an SSI recipient or a recipient of state or federal foster care payments. **Note:** Assets of an SSI recipient do not count toward the EA asset limit, even though the income of an SSI recipient **does** count toward the EA income limit. *See Questions 5 & 6.*
- Savings required during the 6-month period for families who went over income (see **Question 6**) are not countable for EA.

This is not a complete list of non-countable assets. Check the regulations for a complete list. *See* 760 CMR 67.02(6)(a), relying on 106 CMR 204.120 through 204.140. **Note:** Assets that cannot be sold, for example, because they are under the control of another person or tied up in legal proceedings, are “inaccessible” and should not be counted. 106 CMR 204.125.

Advocacy Tips:

- ✓ In the fiscal year 2021 budget, the Legislature removed the TAFDC asset limit for families participating in the TAFDC program. While EOHLC is not imposing an asset limit in the EA program on families in which all household members are participating in TAFDC, EOHLC

continues to impose a \$5,000 asset limit on other families. See Housing Stabilization Notice 2022-02

<https://www.mass.gov/doc/housing-stabilization-notice-2022-02-asset-calculation-for-emergency-assistance-eligibility/download>.

- ✓ If you are in EA shelter and have saved the money required by your Rehousing Plan, you should not be terminated for going over the asset limit -- even for assets other than those savings. 760 CMR 67.02(6)(b). Contact an advocate if you get a termination notice for being over the asset limit.
 - ✓ The EA regulations incorporate the TAFDC rules on what are countable assets. The TAFDC car value exclusion rule was updated and improved in 2019. 106 CMR 704.120(G).
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7 What are the EA asset-transfer rules?

- Under EOHLC regulations, you are not eligible for EA if you transferred real or personal property within the previous year for the purpose of becoming eligible for EA. 760 CMR 67.02(8). If you did not know about EA at the time of the transfer, or there was another reason you transferred the property, this rule should not bar you from being eligible for EA.
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8 Which families qualify as “homeless enough” for EA?

In order to be eligible for EA, you must have no “feasible alternative housing,” which means you must not have “any currently available living situation including temporary housing with relatives, friends or charitable organizations.” 760 CMR 67.06(1)(b).

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In addition, you must fall into one of four narrow categories to be eligible:

1. Your household is:
 - a. At risk of domestic abuse in the current housing situation; or
 - b. Experiencing homelessness because you fled domestic violence, and you have not had access to safe, permanent housing since leaving the housing situation from which you fled. 760 CMR 67.06(1)(a)1.

Note: Under b., families do not have to prove current risk of domestic violence, but they must show they have no other place to stay now.

2. Your household is experiencing homelessness due to fire, flood or natural disaster, through no fault of its members. 760 CMR 67.06(1)(a)2.
3. Your household has been subject to eviction from its most recent housing due to:
 - a. Foreclosure, through no fault of the members of the household;
 - b. Condemnation, through no fault of the members of the household;
 - c. Conduct by a guest or other household member who is not part of the household seeking emergency shelter, and the remaining household members had no control over their conduct;

Note: EOHLC attributes to heads of households the ability to exclude a household member or guest and therefore “control” their behavior. HSN 2012-09A cites 760 CMR s. 67.06(1)(f)3.c. to say the limited exceptions are when (1) the behavior was domestic violence; (2) the behavior was related to a mental health issue; or (3) the conduct was caused by a minor household member or guest subject to a

Child Requiring Assistance (CRA) plan with which the parent is in compliance;

d. Nonpayment of rent, caused by:

- (i) A documented medical condition;
- (ii) A diagnosed disability, or
- (iii) A documented loss of income within the past 12 months directly as a result of a change in household composition, or a loss of income source through no fault of the household. 760 CMR 67.06(1)(a)3.

Note: The regulations at 760 CMR 67.06(1)(f)5 say that this category applies only if the family loses more than 10% of its income and the new, lower income means the family is paying over 50% of their income for rent and utilities.

e. A pure no-fault reason, such as the expiration of a lease without renewal or termination of a month-to-month tenancy (tenancy at-will) for no stated reason.

Note: No-fault evictions include evictions because the owner is selling the building, wants to move a family member into the apartment, or wants to make significant renovations to the unit or building.

4. Your household is in a housing situation where the [EA] household members:

a. Do not include the primary lease holder,

Note: This includes families who are “doubled up” with others and not on the lease or individuals who are on the lease but who are not either the head of household or the intimate partner of the head of household.

or

- b. The child(ren) of the household are in a housing situation not meant for human habitation, (*But see Question 8*).

Note: Housing “not meant for human habitation” is narrowly defined in 760 CMR 67.06(1)(f)6.d.(ii) and 8. to cover only housing that: i) does not have hot and cold water for personal use, ii) does not have heat from September 16th through June 14th, iii) does not have electricity or lighting, or where the household does not have access to control lighting or electricity, iv) does not have operable toilet facilities, or v) has unsanitary conditions that result in the accumulation of garbage. *See Question 9, d. (ii).*

and where

- c. There is a substantial health and safety risk to the family that is likely to result in significant harm if the family remains in the housing situation. 760 CMR 67.06(1)(a)4.

Note: EOHLC has issued policy memos regarding the four categories: how to verify domestic violence for purposes of Category 1, Housing Stabilization Notice 2013-07B, <https://www.mass.gov/files/documents/2016/07/ww/hsn201307b.pdf>; how to determine whether an eviction is for “fault” for purposes of Categories 2 and 3, Housing Stabilization Notice 2012-09A, <https://www.mass.gov/files/documents/2016/07/wa/hsn2012-09a.pdf>; and two policy memos discussing the terms used and how to verify the health and safety risk required to qualify under Category 4, Housing Stabilization Notices 2016-03, <https://www.mass.gov/files/documents/2016/10/vk/hsn2016-03.pdf> and Notice 2012-10, <https://www.mass.gov/files/documents/2016/07/uh/hsn201210.pdf>

Advocacy Tips:

- ✓ Former homeowners who were evicted following a foreclosure for failure to make mortgage payments generally will not be considered eligible for EA on the basis of a “no fault” eviction. However, if the family can prove that its failure to make mortgage payments was the result of one of the excused reasons for nonpayment of rent listed above (a documented medical condition, disability, or loss of more than 10% of income resulting in a payment of 50% of the family’s income toward the mortgage and utilities), then the family will be eligible for EA on the basis of an “excused fault eviction.” *See* Housing Stabilization Notice 2012-09A, page 6, *available at* <https://www.mass.gov/files/documents/2016/07/wa/hsn2012-09a.pdf>
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9 What kind of health and safety risk is serious enough to be eligible under category 4?

Under the regulations, 760 CMR 67.06(f)6, children who are sleeping in a doubled-up housing situation are at a significant enough health and safety risk to qualify under 760 CMR 67.06(1)(a)4.c only if the family is subject to:

- a. Exposure to felony or misdemeanor crimes by a member of the primary tenant’s household that cannot be addressed by law enforcement or alternative dispute resolution, or repeated exposure to such conduct by a regular guest of the primary tenant, that is likely to result in significant harm to the EA household;
- b. Exposure to mental health issues by a member of the primary tenant’s household that are likely to result in significant harm to the EA household and cannot be addressed by a referral to mental health treatment before such harm occurs;

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- c. Exposure to substance use by a member of the primary tenant’s household that is likely to result in significant harm to the EA household and cannot be addressed by a referral to substance abuse treatment before such harm occurs; or
- d. (i) Condemnation of the unit due to presence of poor physical conditions through no fault of the EA household; or
(ii) The housing situation is not meant for human habitation, which means it has physical conditions that the landlord cannot or will not remedy before significant harm occurs to the family members. Those conditions are:
 - i. Lack of a supply of hot and cold water or inability to access water for personal use;
 - ii. Lack of heat from September 16th through June 14th;
 - iii. Lack of, or inability to control, electricity or lighting for personal use, or inability to dim lights for nighttime sleeping;
 - iv. Unsanitary conditions that result in the accumulation of garbage that may draw rodents, cause accidents, or otherwise create or spread disease; or
- (iii). The housing situation is only an irregular overnight sleeping situation, and the irregularity of the family’s sleeping situation is persistent.

Note: An “irregular housing situation” based on frequent moves is sometimes referred to as “chronic couch surfing.” An irregular overnight sleeping situation also includes staying in a non-EA funded, time-limited shelter. These families should be eligible for EA at the end of their time-limited stay.

See generally 760 CMR 67.06(1)(a) – (f) and policy memos discussed at the end of **Question 8**.

The presence of a significant health and safety risk must be verified by the Department of Children and Families (DCF) or another agency. 760 CMR 67.06(1)(e)3 and 4. However, if the family appears eligible based on their own statements, the family should be placed in shelter pending the health and safety assessment and collection of other verifications. *See Questions 12 and 13*.

Note: An EOHLC policy memo from October 2016 states that if child(ren) stayed the previous night with the primary tenant and the family provides written proof that the children cannot stay another night with the primary tenant, or other “persuasive evidence” that they have no feasible alternative housing, DHCD should request an urgent health and safety assessment and provide a non-EA placement until the health and safety assessment is complete. *See* Housing Stabilization Notice 2016-03, page 7 at <https://www.mass.gov/files/documents/2016/10/vk/hsn2016-03.pdf>

Advocacy Tips:

- ✓ Many families are not eligible for EA under categories 1 – 3 of 760 CMR 67.06(1)(a) (current or former domestic abuse, fire, flood or natural disaster, or narrow categories of qualifying evictions), and therefore must show that the housing situation in which they are doubled up with others exposes them to crimes, violent physical conduct, or severe mental health issues or substance use; that the place they are staying qualifies as a “housing situation not meant for human habitation;” or that they have been engaged in “irregular housing” or chronic couch surfing.
- ✓ The Legislature included language starting in the FY20 budget directing EOHLC to provide shelter to otherwise eligible families who have not yet stayed in places not meant for human habitation. EOHLC

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has not issued guidance about how field offices should implement this requirement, and has stated that no new guidance is required.

However, families in this situation are regularly denied placement. If a family is otherwise eligible and has no place to go, they should be placed in shelter pending a DCF health and safety assessment. G.L. c. 23B, § 30(B), as amended by St. 2020, c. 41, § 2 at 7004-0101.

Families should be explicit with EOHLC that they have nowhere to stay that night.

- ✓ To qualify for “irregular housing,” your family must provide verification that you have recently moved from place to place in an irregular pattern, not staying in any one place for more than a week or two. *See* Housing Stabilization Notice 2016-03 at <https://www.mass.gov/files/documents/2016/10/vk/hsn2016-03.pdf>
- ✓ If you were denied for not meeting one of the four categories of EA eligibility, you may become eligible once your family has had “irregular housing” (engaged in chronic couch surfing), or once your family will have to stay (or has stayed) in a place not meant for human habitation because you have no safe place to go that night. Under the budget language for FY20-FY23, EOHLC should not deny you if staying in a place not meant for human habitation would make you eligible AND you have nowhere to go that night. You may reapply for EA at any time.
- ✓ Families are routinely discouraged from applying or completing an application by being told they will not qualify, without being given a written denial. Families only have a right to appeal if they receive a paper denial, so you should insist on being allowed to finish the application and receive a denial. If EOHLC refuses to let you complete an application, you should seek a legal advocate.
- ✓ Families who are doubled-up, or couch-surfing, with a host family should be careful about encouraging the host’s landlord to issue a Notice to Quit because it will not necessarily lead to EA eligibility

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and may put the host family at risk of eviction. If possible, families that are couch-surfing should provide a letter from their host stating that the family can no longer stay with them. A letter from the landlord is not necessary, even if EOHLC asks for one.

- ✓ **Waivers.** EA regulations allow EOHLC to approve a waiver of the rules based on “good cause.” 760 CMR 67.10. Families at risk of staying in a place not meant for human habitation can ask for a waiver to be placed earlier by emailing EOHLC Division of Housing Stabilization Director, Deputy Director of Field Operations Ezequiel Lopes (ezequiel.lopes@mass.gov), and Legal Counsel Adrian Walleigh (adrian.walleigh@mass.gov).
- ✓ Many families report that when they tell EOHLC that they are sleeping in a place not meant for human habitation, such as a car, EOHLC threatens to report them to DCF by filing a “51A” petition against them for “abuse and neglect.” DCF cannot lawfully take your children away from you just because you are experiencing homelessness. 110 CMR 1.00. If you are threatened in this way, contact an advocate.
- ✓ Tell your family and friends that someone from EOHLC or DCF may call or visit to find out if you can stay with them. EOHLC may deny your eligibility for EA or HomeBASE if your family or friends say you can stay with them.
- ✓ EOHLC may deny your application if you refuse to let DCF contact the family or friend you have been staying with. If you agree to the visit but the other family refuses to talk to DCF, you should not be denied EA. *See* DCF and EOHLC Health and Safety Initiative Administrative Plan (2012), <https://www.mass.gov/files/documents/2016/07/oe/healthandsafetyassessmentsinitiativeadministrativeplan.pdf>.

10 Can you be denied emergency shelter even if you are “homeless enough” and are financially eligible for EA?

Even if your family is experiencing homelessness that is covered by one of the four categories of affirmative eligibility (*see Question 8*) and you meet the EA income and asset rules, EOHLC may still deny your application for a disqualifying reason.

You may be denied for a disqualifying reason if:

- Your family was in EA shelter (or was approved for an EA shelter placement that you did not go to) within the past 12 months. This is known as the “12-month rule”.

Note: The 12-month rule should not apply to you if the last time you were in shelter, you:

- Left shelter for temporary housing that was approved by EOHLC on a Temporary Emergency Shelter Interruption (TESI) form
 - Left shelter for housing that was supposed to be safe and permanent but turned out not to be
 - Left shelter with HomeBASE at least three months prior to needing shelter again and were not terminated from HomeBASE, **or**
 - Were temporarily placed in shelter pending receipt of verifications (*see Question 12*), but were then found ineligible.
- Your family was terminated from the HomeBASE program for “cause” within the past 12 months, or EOHLC finds that you did not make a good faith effort to comply with your HomeBASE housing stabilization plan in ways that could have caused you to be terminated for cause (*see 760 CMR 65.03(4)(a)* and **Part 6**)

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- Your family intentionally made itself homeless to become eligible for EA or to get a housing subsidy
- The reason you are experiencing homelessness now is that you abandoned public or subsidized housing in the past year without good cause (good cause includes leaving housing for a job, medical care, or other housing, or fleeing the housing because of a direct threat to a member of your household)
- The reason you are experiencing homelessness now is that you were evicted from (or entered into an agreement for judgment to leave) public or subsidized housing in the past three years for not paying rent or for fraudulent behavior, unless the person who caused the eviction is not part of the household seeking EA
- The reason you are experiencing homelessness now is that you were evicted from (or entered into an agreement for judgment to leave) private, public or subsidized housing for criminal conduct or destruction of property, unless the person who caused the eviction is not part of the household seeking shelter, or unless the criminal conduct was perpetrated by someone who is no longer part of the household
- The reason you are experiencing homelessness now is that you did not cooperate with EA housing search or other housing assistance activities. If you had HomeBASE and were terminated for violating rules listed in 760 CMR 65.05(1)(a)-(r), EOHLC will bar you from receiving more help for 12 months from the date your HomeBASE assistance was terminated
- You (or an adult seeking shelter with you) quit a job, reduced work hours, or refused to accept increased work hours within 90 days before your application, unless you had “good cause” (good cause includes that you had to attend to a family crisis, emergency or other compelling circumstance, or did not have state-licensed child care), **or**

- You are a teen parent who was asked to leave 3 or more young parents living programs (YPLP) because of rules violations or for any behavior-related reasons, or you refused a young parents living program placement.

760 CMR 67.06(2) and 760 CMR 65.03(4)(a)2

Note: Consult an advocate if you are denied shelter for any reason and have no safe place to stay.

Advocacy Tips:

- ✓ You may be eligible for shelter if your current homelessness was not caused by a disqualifying reason, even if you previously experienced homelessness due to a disqualifying reason. For example, if you were evicted for a disqualifying reason listed above, you may not be found eligible; however, if you found “**intervening housing**” and then experienced homelessness again, you may be eligible. **Intervening housing** means that you paid some rent for at least two months in other housing, and you were not staying there in violation of a lease, such as doubled up with someone in subsidized housing. See Housing Stabilization Notice 2012-05, <https://www.mass.gov/files/documents/2016/07/uj/hsn201205.pdf>
- ✓ EOHLC should not deny you EA benefits based on the 12-month rule if you left shelter for HomeBASE and you have been out of shelter for at least three months. However, you must establish EA eligibility and be in good standing with the HomeBASE program. See Housing Stabilization Notices 2013-03 <https://www.mass.gov/files/documents/2016/07/nj/hsn2013-03.pdf> and 2013-03A <https://www.mass.gov/files/documents/2016/07/tc/hsn2013-03aextension.pdf>.

- ✓ The Americans with Disabilities Act (ADA) and the Fair Housing Act (FHA) may require EOHLC to disregard reasons for denial that are related to disability (for example, you were evicted for destruction of property that happened because of disability-related conduct). *See Question 18* and ask an advocate for more information about the ADA.
- ✓ If you want to leave shelter for temporary housing (for example, to stay with family or friends) and you may want to return to shelter within 12 months, first get EOHLC to sign a Temporary Emergency Shelter Interruption (TESI) form that approves your leaving. EOHLC takes the position that a TESI can only be granted in particular circumstances and that they can only be granted for 30 days, with one 30-day extension, for a total of 60 days. If you do not return by the expiration date of your TESI, EOHLC may still find you are barred by the 12-month rule. *See HSN 2016-02*. Consult an advocate if you cannot get EOHLC's approval or if you are later denied shelter because you left for temporary housing.

11 Can you get EA if you are not a United States citizen or not a Massachusetts resident?

Immigration Status

EA is available to many persons with legal status including refugees, lawful permanent residents, Cuban/Haitian entrants, and persons residing in the U.S. under color of law. For a full definition of eligible non-citizens, see 106 CMR 203.675. *See also* the DTA Non-Citizen Desk Guide, at <https://www.masslegalservices.org/content/dta-non-citizen-desk-guide>. EA eligibility is determined in the guide the same as EAEDC eligibility.

If any member of your household has one of these statuses or is a U.S. citizen, your entire household meets this requirement. 760 CMR 67.02(7).

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For example, if a mother and one child are undocumented but the youngest child is a lawful permanent resident, the entire household has eligible immigration status for EA shelter.

For EA shelter purposes, a household consists of at least one child, parents, stepparent or caretaker relatives, legal guardians, and siblings (including half- and stepsiblings) of the child. For example, a family consisting of a child, her mother, stepfather, and stepsister are seeking EA, but only the stepsister is a U.S. citizen or has eligible status, the entire household has eligible immigration status for EA.

State Residency

In July 2012, DHCD began verifying that all members of a family seeking shelter are residents of the Commonwealth. 760 CMR 67.02(1)(c).

Any third-party verification that shows you are in the Commonwealth with the intent to reside should be good enough to prove Massachusetts residency.

The preferred forms of verification for adults are a Massachusetts I.D. or driver's license or a current utility bill, but good alternatives are proof that any of the children in the family are registered for school in Massachusetts, or proof of voter registration in Massachusetts. Also acceptable are letters from a child's primary care doctor listing a Massachusetts address, mail from a state or federal agency that is addressed to you at a Massachusetts address, or a cell phone bill addressed to you at a Massachusetts address.

Registration in school can be verified by a transcript or in a letter on the school's letterhead, which should be able to be obtained quickly.

If you are denied for lack of proof of Massachusetts residency and you intend to remain in Massachusetts and need emergency shelter, contact an advocate.

For a complete list of documents EOHLC says it will accept as proof of eligible immigration status and Massachusetts residency (and identity), see pages 4-6 of Housing Stabilization Notice 2012-08, at <https://www.mass.gov/files/documents/2016/07/tf/hsn201208.pdf>

12 What if you do not have proof of your eligibility when you apply for EA?

When you go to an EOHLC/DTA office to apply for EA, you should bring as many documents as you have that may help show you are eligible for EA. But if you need shelter right away, EOHLC should not deny you shelter just because you do not have all the proof (verification) at the time you apply.

If you appear to be eligible based on your own statements and other information available to EOHLC (such as information in the DTA and EOHLC computer systems), EOHLC must place you in shelter and give you 30 days to get necessary verifications. This is known either as “presumptive eligibility,” “presumptive placement” or “placement pending verifications.” 760 CMR 67.06(1)(c). *See also* Housing Stabilization Notice 2012-08, <https://www.mass.gov/files/documents/2016/07/tf/hsn201208.pdf>. If you need help getting verifications, your EOHLC worker or shelter provider should help you get them. 760 CMR 67.04(c).

Advocacy Tip:

- ✓ EOHLC says that the presumptive eligibility rules do not apply to documents that prove identity or relationship, and that such documents must be provided before an eligibility determination and placement will be made. *See* Housing Stabilization Notice 2012-08, at <https://www.mass.gov/files/documents/2016/07/tf/hsn201208.pdf>. This is inconsistent with the statutory requirement of placement

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pending verifications. As of September 2023, this issue has been appealed to the Massachusetts Supreme Judicial Court in the class action lawsuit *Garcia v. DHCD*. You should always try to provide as many verifications as you can at the time of application, but if you do not have needed verifications readily available and have no place safe to stay and EOHLC refuses to place you due to lack of any verification, contact an advocate.