

Part 1

Emergency Assistance Eligibility

1 What is Emergency Assistance (EA)?

Emergency Assistance (EA) is a state program that provides certain homeless families with children with:

- emergency shelter,
- help finding and keeping permanent housing, and
- help paying for some costs related to finding and keeping housing.

106 C.M.R. §§ 309.039, 309.040 and DHCD/DHS Flexible Funds and Stabilization Programs - Master Agreement With Providers (DHCD/DHS rev 7/31/09), www.masslegalservices.org/node/27236.

2 Where can you apply for EA?

You can apply for EA at the 22 local offices of the Department of Transitional Assistance (DTA) listed in **Appendix A** between 8 a.m. and 4 p.m. each weekday.

The Department of Housing and Community Development (DHCD), through its Division of Housing Stabilization (DHS), now runs the EA program, but DHCD/DHS workers are located in DTA offices and EA applications are taken there.

Advocacy Tips:

- √ If you go to a DTA office for shelter, DHCD should take your application right away. If someone tries to send you away before your application is taken, ask to talk to a DHCD Supervisor or call DHCD’s toll-free Recipient Services number at 1-877-418-3308. If that does not work, contact an advocate.
- √ DHCD may try to “divert” you from shelter by suggesting you stay with friends or relatives. If you have no place safe to go and you appear to meet eligibility rules based on your own statements and other information DHCD has, you have a right to be placed in shelter right away. See **Questions 11 and 12**.
- √ If you go to DHCD for shelter but DHCD says you are not eligible, DHCD should give you a written denial notice that you can appeal. See **Question 15**.
- √ DHCD is not taking EA applications at every DTA office and only until 4 p.m. each week day. This may violate state law. St. 2009, c. 37, § 142. If this causes a problem for you, contact an advocate.

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Which homeless families are eligible for EA?

EA is available to:

- homeless children under age 21 and their families, including parents, stepparents, other close relatives or legal guardians who are primary caretakers of a child, and
- homeless pregnant women at any stage of pregnancy, and the pregnant woman’s husband, 106 C.M.R. § 309.020,

if they meet financial and other eligibility rules. See **Questions 4 - 10**.

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 no more than 115% of the federal poverty limit for your family size. The federal poverty limit goes up slightly in January or February each year. As of July 1, 2009, the EA eligibility standards for applicants were:

Household Size	EA Eligibility Standard
1	\$1,038
2	\$1,397
3	\$1,755
4	\$2,114
5	\$2,472
6	\$2,831
7	\$3,189
8	\$3,547
Each additional household member	\$359

Remember: These limits increase
each January or February

EA looks at your gross income, not net income after deductions. 106 C.M.R. § 309.020.

If you expect your income to go down, DHCD should use the best estimate of income for the next month. 106 C.M.R. § 702.920. See **Question 5** for which income does and does not count for EA.

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For families in shelter. If you are in EA shelter and your gross income goes over the EA eligibility standard, you can continue to receive shelter benefits for six months unless you become ineligible for another reason. To receive shelter benefits for the next six months, you

- must save the amount by which your income exceeds the income limit (this is in addition to what you must save under your EA Rehousing Plan, see **Question 14**),
- 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 DHCD worker), and
- must follow all other EA rules. 106 C.M.R. § 309.020(E).

In special situations, DHCD may extend your EA benefits beyond the six months. 106 C.M.R. § 309.020(E). Ask your DHCD worker if you need more time to find housing.

Advocacy Tips:

- √ Families who entered shelter before July 1, 2009 are subject to a higher income limit of 130% of the federal poverty limit. They can remain in shelter for 6 months after their income goes over 130% of the federal poverty limit.
- √ Before using any of your saved money, ask your DHCD worker if the spending is allowed.
- √ One-time “lump sum” income, such as a personal injury settlement, does not cause a period of ineligibility for EA as it does for TAFDC. See 106 C.M.R. § 309.020(E).

5

What income is and is not counted for EA?

The EA income rules are based on the income rules for the program of Transitional Aid to Families with Dependent Children (TAFDC), but some things count as income for EA that do not count for TAFDC. 106 C.M.R. § 309.020(E), citing portions of 106 C.M.R. § 204.

Income that *is* counted for EA includes:

Earned income (such as wages, tips, salary, and self-employment income minus business expenses), 106 C.M.R. § 204.210(A), and

Unearned income (such as social security, unemployment compensation, veteran's benefits and income from trusts). 106 C.M.R. § 204.210(B).

Note: For EA (unlike TAFDC), countable income also includes Supplemental Security Income (SSI), TAFDC, Emergency Aid to Elderly, Disabled and Children (EAEDC) and all child support actually received by the household. 106 C.M.R. § 309.020(E).

Income that *is not* counted includes:

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

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- earnings of a child under 14,
- certain restricted cash gifts from persons who are not financially responsible for anyone in the EA household, **and**
- assistance from social service or other organizations.

When DTA administered EA, it took the position that the following payments were non-countable (and, since DHCD is applying DTA's former regulations, DHCD should take the same position):

- up to \$7,500 in relocation payments received by a tenant to leave a foreclosed property plus additional amounts you can verify are being used for relocation expenses, see DTA Transitions, Jan. 2008, p. 7, and
- payments from a reverse mortgage (loan that allows homeowner to withdraw equity from property), see DTA Transitions, April 2007, pp. 4-5.

This is not a complete list of noncountable income. The regulations describe over 30 types of noncountable income. Check the regulations for a more complete list. See 106 C.M.R. § 204.250(A)(2) through (QQ), cited in 106 C.M.R. § 309.020(E).

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What is the asset limit for EA?

- The asset limit for EA is \$2,500. That means you generally must have less than \$2,500 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 14**) and
 - EA 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,
 - the value of vehicles owned by the household except for the first \$10,000 in fair market value or the first \$5,000 of equity value (whichever is greater) of one 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:
 - the first \$10,000 in fair market value or the first \$5,000 of equity value (whichever is greater) of one vehicle,
 - 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),
 - the Earned Income Tax Credit in the month of receipt and the following month, and assets used to produce income, such as a vehicle used for self-employment,
 - up to \$7,500 in relocation payments that was received by a tenant to leave a foreclosed property, DTA Transitions, Jan. 2008, p. 7, **and**
 - 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 **Question 4**.

- Savings required during the EA 6-month over-income period (see **Question 4**) are not countable for EA.

This is not a complete list of noncountable assets. Check the regulations for a complete list. 106 C.M.R. § 309.020(F), relying on 106 C.M.R. § 204.120 – 204.140.

Advocacy Tip:

- √ 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. 106 C.M.R. § 309.020(F). Contact an advocate if you get a termination notice for being over the asset limit.

7

What are the EA transfer of asset rules?

- Under DHCD 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. 106 C.M.R. § 309.020(H). 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 shelter.
- A new state law says that DHCD can deny you EA if it can prove that, in the previous year, you transferred, assigned or depleted assets that would have made you ineligible for EA and the transfer, assignment or depletion was for reasons that were not reasonable at the time or for reasons that do not qualify as “good cause.” M.G.L. c. 23B, § 30(B).

“Good cause” reasons, for this rule, include *but are not limited to* that the funds were spent for necessary or reasonable costs of living such as rent, utilities, food, health-related needs, education-related expenses, or transportation.

Advocacy Tip:

- √ The Legislature repealed the state law that used to say that a family should be denied EA if it transferred property in the past year for the purpose of getting EA. So the DHCD regulation based on that law may now be invalid. If you are denied EA because DHCD says you transferred property for the purpose of getting EA, contact an advocate.

8

Who qualifies as homeless for EA?

To be eligible for EA you must have no “feasible alternative housing.” This means that you must either:

- Have **no current housing** (including no ability to stay with family or friends), **or**
- Have housing that is no longer “**feasible.**” Housing is no longer feasible if:
 - you are currently staying somewhere, but cannot stay for more than a week (DHCD can wait to place you until you are no longer able to stay where you are),
 - your landlord or former landlord has a judgment for possession, for example, because you were evicted or a lease expired (court documents or an expired lease are the best way to prove this),
 - you or your children experienced mistreatment or abuse in your current living situation (a statement from a social worker is the best way to prove this; DHCD may send a social worker to the home to investigate),
 - you need to relocate because of a severe medical condition (a doctor’s statement is the best proof),
 - a disaster, for example, a fire (a fire department, police or Red Cross report, or Red Cross oral statement pending report, is good proof),
 - severe health code violations or overcrowding (a report from the Board of Health is good proof; DHCD may send a social worker to the home to investigate), **or**
 - the housing presents a threat to health or safety (DHCD will send a social worker to do an assessment).

106 C.M.R. § 309.040(A)(2) and (5).

Advocacy Tips:

- √ Tell your family and friends that DHCD may call them to find out if you can stay with them. DHCD may deny you shelter if your family or friends say you can stay with them.
 - √ You do not have to have all the proof right away to be placed in shelter. See **Question 11**.
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9

Can you be denied shelter if you are homeless and are financially eligible for EA?

Even if you are a homeless family that meets the EA income and asset rules, DHCD can deny you shelter if:

- your family was in EA shelter (or was approved for and referred to an EA shelter placement that you did not go to) within the past 12 months (this is known as the “12 month rule”) unless
 - you left shelter for temporary housing that was approved by DHCD (or by DTA before July 1, 2009) on a Temporary Emergency Shelter Interruption (TESI) form **or**
 - you left shelter for housing that was supposed to be safe and permanent but in fact was not,
- your family made itself homeless to become eligible for EA or to get a housing subsidy,
- you are homeless now because you abandoned public or subsidized housing in the past year without good cause (good cause includes leaving housing for a job or other housing),
- you are homeless now because you were evicted from (or entered into an agreement for judgment to leave) public or subsidized housing for not paying rent or for fraudulent behavior in the past three years,

unless the person who caused the eviction is not part of the household seeking shelter,

- you are homeless now because 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 the criminal conduct was by a domestic abuser who is no longer part of the household,
- you are homeless now because you did not cooperate with EA housing search activities,
- you (or an adult with whom you are seeking shelter) quit a job, reduced work hours, or refused to accept increased hours of employment within 90 days before your application, unless you had “good cause” which includes that you had to attend to a family crisis, emergency or other compelling circumstance (which homelessness often is) or did not have state-licensed child care, **or**
- you are a teen parent who was asked to leave 3 or more teen living programs because of rules violations or for any behavior-related reasons or you refused a teen living placement.

106 C.M.R. §§ 309.020, 309.040.

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

Advocacy Tips:

- √ DHCD should not deny you shelter benefits based on the 12-month rule if you left shelter for housing that in fact was not safe and affordable.
- √ DHCD should not deny you shelter based on the 12-month rule if you received an EA benefit other than shelter (such as “diversion” services, a rent or utility arrearage payment, or a short term housing subsidy, see **Question 19**), but you were not in shelter or did not refuse a shelter placement in the past 12 months.

- √ The Americans with Disabilities Act (ADA) may require DHCD to disregard denial reasons that are related to disability (for example, you were evicted for destruction of property that happened due to disability-related conduct). See **Question 16** 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), first get DHCD to sign a Temporary Emergency Shelter Interruption (TESI) form that approves your leaving. Consult an advocate if you cannot get DHCD's approval or if you are later denied shelter because you left for temporary housing.

10 Can you get EA if you are not a citizen?

EA is available to immigrants with legal status, including refugees, lawful permanent residents and persons residing in the U.S. under color of law.

If any member of the household has one of these statuses or is a citizen, the entire household is eligible. 106 C.M.R. § 309.020(G).

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

When you go to a DTA office to apply with DHCD for EA, you should bring as many documents as you have that you think will help show you are eligible for EA. But if you need shelter right away, DHCD is not allowed to deny you shelter just because you do not have the kind of proof (verification) it wants at the time you apply.

If you appear to be eligible based on your own statements and other information available to DHCD (such as information in the DTA and DHCD computer systems), DHCD must place you in shelter and give you 30 days to get necessary verifications. 106 C.M.R. § 309.040(A)(3). See also Housing Stabilization Notice 2009-2 posted in the Benefits section of

www.masslegalservices.org under Emergency Assistance and DHCD/DHS Policy Materials.

If you need help getting verifications, your DHCD worker or the shelter provider should help you get them after you are placed in shelter.

Advocacy Tip:

- √ If DHCD denies you EA because you do not have the documents they want and you need shelter right away, ask to talk to a DHCD supervisor or call DHCD's toll-free Recipient Services number at 1-877-418-3308. If that does not work, file an appeal and contact an advocate.