

Part 7

HomeBASE Terminations and Appeals

23 What terminations from HomeBASE will bar you from shelter for 12 months?

You can be barred from getting into EA shelter for 12 full months (1 year) if you receive HomeBASE assistance and are terminated “for cause,” or you are later found by EOHLIC to have failed to make a “good faith effort” to comply your HomeBASE stabilization plan in ways that could have justified your being terminated from HomeBASE. 760 CMR 65.03(4)(a)2.

Terminations “for cause” include terminations:

For two or more incidents, without good cause, of:

- (a) Failing to repay arrearages to a former landlord, if a repayment obligation is in the housing stabilization plan
- (b) Failing to repay damages to a former landlord, if a repayment obligation is in the housing stabilization plan
- (c) Failing to comply with your Program Participation Agreement, including compliance with all HomeBASE rules and regulations
- (d) Failing, substantially and materially, to comply with your lease, including not paying your share of rent and utilities within five (5) days of due date

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- (e) Failing, substantially and materially, to comply your Stabilization Plan, including to attend in-person or telephonic meetings with your Stabilization Worker if you had at least two days' advance written notice of such a meeting

Or,

For one or more incident(s), without good cause, of:

- (f) Criminal conduct of a family member in the unit, in the building, or on the property on which the HomeBASE unit is located; except when the household member did not know or should not have known of the conduct and promptly took steps to exclude the person engaging in the conduct at issue
- (g) Criminal conduct of a guest of the HomeBASE family in the unit, in the building, or on the property on which the HomeBASE unit is located; except when the household member did not know or should not have known of the conduct and took steps to exclude the person engaging in the conduct at issue
- (h) Possession of illegal firearms in the unit, in the building, or on the property on which the HomeBASE unit is located; except when the household member did not know or should not have known of the conduct and took steps to exclude the person engaging in the conduct at issue
- (i) Destruction of property in the unit, in the building, or on the property on which the HomeBASE unit is located; except when the household member did not know or should not have known of the conduct and took steps to exclude the person engaging in the conduct at issue
- (j) Threats to health and safety of staff of the Executive Office, the administering agency, the owner or owner's agent, or to people lawfully in the building or the on the property on which the unit is located

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- (k) Failure of a household member to use the HomeBASE unit as a primary residence
- (l) Abandonment of the unit, which may be proved by showing your family removed its belongings, left its belongings in a disordered state indicating an intent to abandon and failed to respond within three (3) days to a written request by the administering agency to explain the situation; did not reside in the unit for a period of five (5) consecutive days without notifying the owner or the owner's agent and the administering agency; has abandoned the unit pursuant to 760 CMR 65.04(2)(i), which says that you must have good cause and give one calendar month's advance notice before leaving a HomeBASE unit; or has chosen to leave a contract unit without good cause as determined by 760 CMR 67.06(2)(c) (good cause includes but is not limited to leaving a unit because of a direct threat to health or safety or accepting employment or permanent housing elsewhere). If you leave a HomeBASE unit with good cause and after proper notice, you must find another unit to rent within 30 days, although the administering agency can extend that time for up to another 60 days for good cause, 760 CMR 65.04(2)(j)
- (m) Allowing a person who is not an authorized resident of the HomeBASE unit to share the unit without the permission of EOHLC, the administering agency, and the owner or the owner's agent, including a person allowed to stay overnight as a guest for more nights than permitted by the lease or for longer than 12 days over a 12-month period, whichever is shorter, unless the administering agency concludes that the pattern of overnights demonstrates by clear and convincing evidence that the overnight guest is not an occupant
- (n) Not accurately reporting changes, including about material changes in income or assets or family composition, within 10 days of the change, or obtaining approval of an addition of a household member (on September 30, 2021 the Legislature eliminated the asset limit retroactive to July 1, 2021; as of this publication EOHLC has not yet updated its regulation to reflect this)

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- (o) Rejecting an offer of safe, permanent housing
- (p) Eviction for nonpayment of rent or other cause, including when a summary process action is commenced on behalf of the owner, although a notice of termination must be rescinded if your household prevails in a summary process action or the owner or owner's agent agrees to allow the family to remain in the unit so long as you comply with a repayment agreement or Agreement for Judgment allowing your family to remain
- (q) Failure to recertify, including by providing required verifications
- (r) Becoming categorically ineligible for EA, including by no longer having a child under age 21 in the household (unless the children simply aged out or custody was lost due to no fault of the family) or going over the HomeBASE income limit. **Note:** You should not be deemed ineligible for a single violation of a self-sufficiency plan. 760 CMR 65.05(1)(a) – (r) and (2)(a) – (e).

Advocacy Tips:

- ✓ Families who have received HomeBASE Household Assistance that has run out should not be given a HomeBASE termination notice later, but HomeBASE providers sometimes do this to keep families from being able to go back into shelter. Contact an advocate if this happens to you.
- ✓ If you get a HomeBASE termination notice you should appeal it to the administering agency within 7 days and contact an advocate. *See Question 24* on HomeBASE appeals.
- ✓ Even if you do not want to stay in your HomeBASE unit or do not want to continue working with HomeBASE staff, you should appeal because you will be barred from EA shelter for one year if you are terminated.

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- ✓ Each of the termination reasons listed above has many defenses to the termination built into it or supplied elsewhere in the HomeBASE rules, and there is often a good defense to a termination.
 - ✓ The HomeBASE participation agreement and regulations require a family to be provided with stabilization services. If you can show that your stabilization worker was unavailable to help you, you may be able to show that you should not have been terminated.
 - ✓ If EOHLC tries to bar you from EA shelter for failure to make a good faith effort to comply with your HomeBASE stabilization plan, check to see if you had a stabilization plan, since many HomeBASE participants do not. If you did not have one, tell EOHLC, reapply for EA shelter, and contact an advocate.
 - ✓ In some instances, EOHLC fails to translate vital documents, including the termination notice itself, into the family's primary language. If you received a termination notice and it was not in your primary language, or if you were terminated but did not receive important documents such as the HomeBASE lease or Program Participation Agreement in your primary language, contact an advocate. You may be able to get a new hearing or get placed back on the HomeBASE program. **See Part 4.**
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24 How do I appeal a HomeBASE termination?

The HomeBASE regulations say that you must appeal a termination by giving a written appeal to the HomeBASE administering agency within seven (7) days from when you receive the notice. This requirement may not be legal (see Advocacy Tips below) but it is important to try to file the appeal within the 7 days. 760 CMR 65.07(1)(a).

The administering agency will then schedule an appeal in front of an employee of the agency who was not involved in the termination decision.

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If you lose the hearing in front of the administering agency, you can ask DHCD to review the decision; but, under the HomeBASE regulations, **you must ask for this review in writing within only 7 days**. You must then make your arguments to DHCD, in writing, within the time frame that DHCD gives you. 760 CMR 65.07(6).

Advocacy Tips:

- ✓ Before the hearing at the administering agency, you should consult an advocate and try to get legal representation. You should also ask to see the administering agency's files to see what evidence they have about the termination and whether the termination decision is consistent with the HomeBASE regulations.
- ✓ The HomeBASE appeals process described above is likely illegal. The HomeBASE line item in the state budget says that HomeBASE appeals are supposed to be done through the same process that applies to EA appeals, pursuant to G.L. c. 23B, section 30(F), under which you are given 21 days to appeal and to be heard by a EOHLC independent hearings officer. If you are being barred from EA shelter because of a HomeBASE termination, you and your advocate can argue that the termination was not lawful because you were denied the proper appeals process, although this argument will likely need to be made to a court.
- ✓ By allowing an appeal to EOHLC only in writing, the HomeBASE regulations may unlawfully discriminate against persons with disabilities and persons with Limited English Proficiency who may have difficulty making arguments in writing.