

Part 2

EA Placements and Terminations

13 How long does it take to be placed in EA shelter?

If your family has no place to stay and you appear to meet the other EA eligibility rules, you should be placed immediately. Unfortunately, under the strict regulations discussed in Question 8, some families are not eligible unless and until they have actually stayed in a situation “not meant for human habitation” or until they can prove they have been moving from place to place in a pattern of “irregular housing” (chronic couch surfing).

In addition, DHCD often delays taking or finalizing an EA application and making a decision. So it is important to go to DHCD and begin the process of applying in advance of when you are actually eligible, so that you can be placed as soon as possible once your family has no safe place to stay.

Advocacy Tips:

- √ DHCD should not delay placing you in shelter if you qualify for EA. Contact an advocate if DHCD tries to postpone placing you and you have no safe place to stay.
- √ DHCD has entered into an agreement with the Department of Children and Families (DCF) to do assessments of housing arrangements that families claim are not safe or no longer available. DCF assessments should not delay placements in EA shelter. If the assessment cannot be done immediately or if you can no longer stay in the housing that is to be assessed or it is not safe and you are otherwise eligible for EA, you should be placed pending the

assessment. See **Question 12**. Contact an advocate if you feel discouraged from seeking shelter because of a DCF assessment or if you have nowhere to stay and DHCD is delaying your placement pending a DCF assessment.

14

Where can you be placed if you qualify for EA shelter?

If you qualify for EA shelter, DHCD can place you in:

- a shelter with other families (congregate shelter),
- an apartment (scattered site shelter),
- a substance abuse shelter if you or another adult in the family have a substance abuse problem,
- a teen living program if you are a teen parent or a pregnant teen under age 20 and space is available, **or**
- another DHCD-approved temporary shelter, such as a motel. If you are placed in a motel, DHCD can transfer you to a family shelter as soon as space is available. 760 CMR 67.06(3).

In certain circumstances, DHCD may choose to place an adult child (18 or older) or a second parent in a separate shelter, including a shelter for single adults. 760 CMR 67.07(3)(b)2.

If you are placed in EA shelter, DHCD must place you in a shelter within 20 miles of your home community if there are any openings in the area. However, there often are no openings within 20 miles and you could be placed very far away. If you are placed more than 20 miles from your home community, DHCD is required to transfer you to a shelter placement within 20 miles of your home community as soon as there is an opening, unless you do not want to move. 760 CMR 67.06(3)(c) and (e).

DHCD can transfer you from one shelter to another shelter if it thinks it would be “efficient” to transfer you. 760 CMR 67.06(4)(c).

Advocacy Tips:

- √ Even if you think you have a good reason for refusing a shelter placement that is offered (either as a first placement or as a transfer), you should accept the placement if at all possible and then appeal the placement to avoid being terminated and barred from further help. See **Questions 10** and **16**.
- √ DHCD is supposed to make every effort to ensure that children placed in EA shelter can continue going to school in their home communities. 760 CMR 67.06(3)(d). If you are in EA shelter and want to be placed so your children can continue going to school in their home community, make a written request to your DHCD worker.
- √ DHCD must take into account disability-related reasons why you need to be placed near your home community, or why you need a particular type of shelter or housing. For example, if you or a member of your family uses a wheelchair, you should be placed in a wheelchair-accessible unit. If a family member has mental health problems and needs privacy, you should be placed somewhere that provides more privacy. Tell your DHCD worker that you need a “reasonable accommodation.” See **Questions 18** and **19** for more information about the Americans with Disabilities Act or contact an advocate.
- √ DHCD should place you in an area that does not cause you to lose your job. Tell DHCD if you think an offered placement would interfere with your keeping a job. If possible, make a written request explaining the reasons to DHCD. Shelter placements are made by DHCD Central Staff and particularly Barbara Duffy, who can be reached at Barbara.j.duffy@state.ma.us and 617-573-1347.

15

What if you are denied EA shelter but have no safe place to sleep?

If are denied EA shelter and have no place to sleep you will be given a list of non-EA shelters, but those have very few available beds. If you live in

Boston, the Mayor's hotline may be able to help (Mayor's 24-hour hotline, 617-635-4500). You may also want to call your State Representative and/or State Senator for help. You can find their names and numbers at <https://malegislature.gov/People/Search>. Or contact a local legal services advocate.

16 What are Re-housing and Stabilization Plans?

A **Re-housing Plan** (formerly called a Self-Sufficiency Plan) is a plan that the adults in your family must follow while you are in EA shelter. The plan is made by the DHCD worker, the shelter provider and the adults in the family. A child age 18 to 21 may be part of the plan. Failure to cooperate in creating or following the plan can lead to a finding of noncompliance, and three findings of noncompliance can lead to termination of shelter benefits. See **Question 17**.

A Re-housing Plan may require your family, among other things, to:

- search for safe, permanent housing,
- attend all scheduled meetings with a housing search worker,
- set goals to keep permanent housing,
- provide proof of applications for public, subsidized and private housing and provide documentation needed to get public or subsidized housing,
- save 30% of your household's net income (after taxes and other withholdings). This requirement should not be applied to families in motels. It should also be lifted or reduced if a change would lead to more rapid re-housing, if the requirement is not reasonable for an individual family, or if the family needs to use the money instead to reduce debts, such as past rent or utilities, in order to be able to get permanent housing, and

Part 2 ■ EA Placements and Terminations

- take part in work, education, training, community service or substance abuse activities for 30 hours per week. This requirement must be reduced or lifted to accommodate a disability, lack of transportation or child care, the need to address medical, mental health and/or domestic violence issues, lack of a site identified by the department to do the activity, or the need to care for a child under the age of 3 months old. 760 CMR 67.06(4)(b).

A **Stabilization Plan** is a plan that the adults in your household must follow while you are in housing supported with HomeBASE funds. The plan is created by your HomeBASE provider with input from the family. Refusal to cooperate in developing a Stabilization Plan and failure to comply with a Stabilization Plan can lead to termination of your HomeBASE assistance and bar your family from receiving additional assistance for 12 months.

A Stabilization Plan may require you, among other things, to:

- do the same things as in a Re-housing Plan discussed above, except you will not have to save 30% of your income;
- pay your share of rent and utilities and comply with your lease;
- repay arrearages and damages owed to any housing authority or HomeBASE provider;
- report any changes in income or household members within 10 days;
- not engage in criminal conduct or let your guests do so;
- not possess a firearm in or around HomeBASE housing;
- not abandon HomeBASE housing or let unauthorized persons stay with you;
- not reject an offer of safe, permanent housing without good cause;
- not miss more than 2 scheduled meetings or phone calls with your stabilization worker;
- not leave any child under the age of 12 unattended in the HomeBASE unit;

Part 2 ■ EA Placements and Terminations

- comply with all service plans from other agencies; and
- take steps to address “financial responsibility; job training, work search and employment; educational attainment; and well-being of children in the family.” 760 CMR 65.03(6) and 65.05.

Advocacy Tips:

- √ If you are asked to sign a Re-housing Plan or a Stabilization Plan that you do not understand or is not reasonable for you or your family, ask DHCD or the shelter or your HomeBASE provider to explain it or change it. If you cannot fully understand the Plan in English, tell DHCD or the shelter or your HomeBASE provider that you need an interpreter. If you still have questions or concerns, consult an advocate.
- √ If you have signed a Plan that you now think is unworkable or not reasonable, ask your worker for a reassessment of your plan and make a record of that request. If your worker refuses to change the Plan, consult an advocate.
- √ If you are sent a notice saying you failed to comply with your Re-housing Plan and you disagree or think you had good reasons for not fulfilling the Plan, file an appeal and contact an advocate for help. See **Question 20**. It is important to appeal a finding that you did not follow your Re-housing Plan because three such findings can cause you to be terminated from shelter, see **Question 17**.

17

When can your emergency shelter benefits be terminated?

DHCD can terminate your family's EA shelter benefits if:

- a family member engages in criminal activity that threatens the health, safety and security of herself, other family members, other shelter residents or shelter staff,
- your family refuses a shelter placement or transfer or fails to appear at a designated placement without good cause. (Good cause for this purpose includes lack of transportation, lack of state-licensed child care, and a family crisis, emergency or other compelling situation that requires a family member's attention),
- your family abandons shelter ("abandonment" means you were absent from shelter for at least 2 nights in a row or you had "repeated absences" without permission from authorized shelter staff or DHCD and without good cause),
- your family now has feasible alternative housing,
- your family's gross monthly income goes over the EA income limit, (although you can stay for six months to look for housing unless you do not save as much as you were supposed to save during the six-month period or become ineligible for another reason). See **Question 4**,
- a family member quits a job, refuses additional work, or reduces earnings from employment, unless you have good cause (good cause for this purpose includes lack of child care, a family crisis or emergency or other extraordinary circumstances), **or**
- your family rejects an offer of safe, permanent housing without good cause (good cause for this purpose includes, but is not limited to, that the housing would require the parent to leave a job that is part of his or her Re-housing Plan; the housing would interfere with access to

Part 2 ■ EA Placements and Terminations

critical medical needs of household members, including access to specialty medical providers; the housing would interfere with the special education needs of a child; or the housing is in an area in proximity to a domestic abuser, or in an area the household was forced to leave because of safety concerns directed at any member of the household).

DHCD can also terminate your family's shelter benefits after any three of the following things happen, or if any one of them happens three times:

- a family member poses a threat to the health, safety or security of herself, other family members in shelter, other shelter residents, or shelter staff,
- a family member misses a family shelter interview without good cause. (Good cause for this purpose may be limited to a death in your immediate family, a personal injury or illness, or another sudden and serious emergency as determined by DHCD),
- a family member does not cooperate in developing a Re-housing Plan, which may impose obligations such as work, housing search, debt-reduction, savings, or other requirements intended to improve your ability to get and keep permanent housing,
- a family member does not comply with the Re-housing Plan without good reasons,
- a family member or a guest violates the Uniform Shelter Program Rules one time.

760 CMR 67.06(5) and (6).

Advocacy Tips:

- √ The Uniform Shelter Program Rules were revised on January 2, 2015 to provide more “good cause” exceptions to certain rules, to excuse some minor (*de minimis*) violations of some rules, to require 24-hours' notice of non-emergency room inspections, to allow families in motels to get permission for another resident to babysit their children, and to create new forms to allow requests for babysitting and

Part 2 ■ EA Placements and Terminations

overnights away from the shelter. Uniform Shelter Rules available at <http://www.mass.gov/hed/docs/dhcd/hs/ea/s-ea-forms-ea-uniform-shelter-program-rules-january-2015-english.pdf>. The new Rules are available in several languages at <http://www.mass.gov/hed/housing/stabilization/emergency-assistance.html>. You may be entitled to have a noncompliance or termination notice rescinded if you could not understand the rules because you did not receive them in your preferred language. The Rules changes were the result of a lawsuit brought by MLRI called *Hayes v. DHCD*. Be sure you have a copy of the Rules and understand them since three rules violations can lead to termination.

- √ To avoid a finding that you “abandoned” shelter, ask your shelter provider to help you request permission for any nights away from the shelter on a new form for requesting overnights. <http://www.mass.gov/hed/docs/dhcd/hs/ea/s-ea-forms-overnight-request-form-january-2015-english.pdf>. For an absence of more than 4 nights in a month, ask your DHCD worker to give you written permission to be absent from shelter on a Temporary Emergency Shelter Interruption (TESI) form, and get the written approval before you leave the shelter. A TESI will allow you to return to shelter within 12 months. DHCD's policy was recently updated to allow you to get a TESI if your children are temporarily removed from your custody. *See* Housing Stabilization Notice 2016-02, available at <http://www.mass.gov/hed/docs/dhcd/hs/hsn/hsn2016-02.pdf>. This policy says a TESI can be given for a maximum of 30 days with one possible extension for a total of 60 days. This limit may be illegal, so contact an advocate if you need more time.
- √ EA shelter noncompliance and termination decisions based on alleged rules violations are made by DHCD Central Office in Boston. Before the shelter asks DHCD to issue the notice, it is supposed to give you 24 hours to write up your side of the story for Central Office to consider. As a result of the *Hayes* lawsuit, families in motels also now have a right to respond before a noncompliance is issued. *See* Housing Stabilization Notice 2015-02, available at <http://www.mass.gov/hed/docs/dhcd/hs/hsn/hsn2015-02.pdf>.

Part 2 ■ EA Placements and Terminations

- √ Consult an advocate and/or file an appeal if your shelter benefits are terminated or you get a noncompliance notice for any reason you think may be wrong. See **Question 20** on appeals.
- √ The Americans with Disabilities Act (ADA) may make it unlawful for DHCD to terminate your shelter or cite you for noncompliance if the reason for the termination or noncompliance is related to disability (for example, you violated a rule because of your disability or you left a shelter placement because it did not accommodate your disability). See **Question 18** and ask an advocate for more information about the ADA.
- √ DHCD's regulation that says that an individual is not eligible for shelter if an outstanding warrant is not resolved in 30 days may violate a statute that says the warrant rule applies only to "non-shelter" EA benefits. M.G.L. c. 23B, § 30(C), as amended by St. 2009, c. 27, § 15. If you receive a termination notice from DHCD for not resolving a warrant in 30 days, consult an advocate.