

M E M O R A N D U M

April 6, 2021

TO: Health and Human Services Committee

FROM: Linda McMillan, Senior Legislative Analyst

SUBJECT: Executive Regulation 18-20, Rental Assistance – Requirements for Rental Assistance Program

PURPOSE: Worksession; Recommendation/Vote Expected

Expected for this session:

Amanda Harris, Chief, Services to End and Prevent Homelessness, Department of Health and Human Services (DHHS)

Leslie Frey, Legislative Analyst, Office of Intergovernmental Relations and DHHS

Executive Regulation 18-20, Rental Assistance – Requirements for Rental Assistance Program was received by the Council on February 23, 2021. The regulation as transmitted says it is subject to Council review under Method 1. However, the County Code specifies that it is to be reviewed under Method 2. Under Method 2, the Council must approve, disapprove, or extend time for consideration within 60 days (April 24) or it will be automatically approved. The Council's Attorney has concluded that since the advertising requirements are the same for Method 1 and Method 2 there is no need to readvertise.

Executive Regulation 20-20 updates procedures for the administration of "The Rental Assistant Program" (RAP) based on changes approved in Bill 25-20; which became effective November 6, 2020. RAP is an ongoing shallow/medium housing subsidy that does not include supportive or wrap-around services as a requirement of receiving the subsidy. Bill 25-20:

- Changed the age of eligibility for RAP from 62 to 55;
- Clarified definition of a person with a documented disability;

- Removed the prohibition of eligibility for County residents without certain immigration documentation; and
- Provided that the specific benefit amount is established in regulation rather than law.

The underlined and bracketed version of Executive Regulation 18-20 is attached at pages (5)-(25). The following are highlights of changes and discussion issues.

Pages (7)-(8) – Provides additional specificity for an “**eligible rental unit**” including requirements for maintaining all licenses as permits required in Chapter 29, Landlord Tenant Relations.

Pages (10)-(11) – Provides that an **eligible household** is an individual or two or more persons where one member of the household meets at least one of these criteria: (A) is a person with a documented disability; (B) is a person 55 years of age or older; or (C) is designated by the Director as eligible to participate. The criteria for a disability can be met if an individual is receiving a disability retirement or with a statement of condition of disability from the person’s physician. The disability must limit one or more major life activities.

Page (12) – The amendments **do not allow an applicant to be leasing a unit owned by a relative** or member of the household. Council staff asked why this change was made if the rent was deemed appropriate for the unit. DHHS has provided the following response:

Most cases we have found where they are renting from family has been used as a loophole to finance mortgage payments. We have also had many cases where the relationship is not disclosed, and then household income is not appropriately being accounted for. Therefore, we were looking to close this loophole with these changes. It is important to note that there is the opportunity at the discretion of the director and their designee to waive this criterion on a case-by-case basis if needed.

Page (13) – Continues the requirement that the **rental cost for an occupied unit must not exceed 120% of the average cost** for a suitable size rental unit.

Page (13) – The regulation now includes that “**An applicant must be experiencing homelessness or the imminent threat of homelessness, including applicants who would become homeless but for their participation in the Rental Assistance Program.**” In addition, “An applicant must have a referral from the coordinated entry system or from an established referral agency.” This is a substantial re-focusing of the RAP program, which previously has been a shallow (maximum \$200) subsidy targeted to senior or disabled households. This change was not specifically in Bill 25-20 and did not need to be, but the intent to refocus was discussed by both the Interagency Commission on Homelessness and the Council when the law was amended in 2020. It will mean that some people currently receiving RAP will no longer be eligible, but it will also target County resources to those most at risk of homelessness. In anticipation of this change, when there has been attrition DHHS has not been pulling names from the current closed waitlist but has accepted 58 new households that came through the Continuum of Care or Housing Stabilization Services.

Council staff requested responses to the following regarding the implementation of this change.

Will DHHS be notifying those on the waitlist that the eligibility is changing and that just being very low income, of a certain age, or a person with a disability is not the full criteria, there is now also an assessment of homelessness or threat of homelessness?

The waitlist was really just an inquiry form for when there are openings in the program. As program openings do occur, they will be filled through referrals through CES and Housing Stabilization.

Will threat of homeless include assisting a family facing eviction, even if they might be able to make other arrangements? For example, the case of a family with children where there is a benefit to assisting with RAP to keep them in their current home so that children do not have to change schools.

Families facing eviction without alternative income sources and where RAP is the piece that enables them to remain housed and not enter the homeless services continuum will be referred to RAP. However, we always work with families to make sure that their housing plan is long-term sustainable and will discuss housing relocation with families where appropriate.

What happens to a current recipient that does not leave on their own through normal attrition? Is it possible that in a year there will be an assessment and someone could lose their \$200 monthly benefit?

Current recipients who no longer meet eligibility will not be able to remain in the program. However, as we recognize that this \$200 may have been a large part of their budgeting and financial planning, they will be eligible to renew and keep the benefit for up to a year after enactment of the regulation. Households enrolled will be notified at time of enactment about the changing program eligibility given them at least 12 months' notice, and of course will be given the opportunity to apply under the new regulations and remain in the program if they meet program criteria.

Pages (16)-(17) – The regulation now provides **reasons why DHHS can discontinue** the RAP payment, terminate the recipient from the program, and also circumstances that would exclude a recipient from future participation. Regarding future exclusion, reasons include: (1) improperly obtaining or using benefits; (2) the recipient or member of the household is convicted of a crime that adversely affects the health, safety, or wellbeing of other persons. However, the regulation also specifies that if a recipient or household member is the victim of domestic violence, dating violence, or stalking DHHS may not discontinue payments because of the violence committed against them.

Pages (17)-(18) – The regulation includes the following regarding the **minimum and maximum payments**.

- The amount of the monthly payment is the amount rent exceeds 40% of the monthly gross income for a household of no more than 3 people or 35% of gross income for a household of 4 or more people. (This is less any other housing subsidies or payments.)
- The minimum payment is now \$100; it was previously \$50.
- The regulation states that the maximum payment is 25% of the average rent for a two-bedroom unit as determined annually by the Department of Housing and Community Affairs. For example, DHHS reports that the 2019 average rent for a two-bedroom apartment was \$1,751, so the maximum RAP payment would be \$437.75. However, this is the maximum for any size unit and the maximum is determined in coordination with the income burden noted above.

Compliance with the County Code: The law says, "Benefits under this Article must be paid in accordance with criteria set by Method 2 regulation. However, the specific minimum and maximum benefit that may be paid to an eligible household must be determined annually by Method 3 regulation." Previously the maximum payment was in law, which meant that it was not easily changed. The reason for setting the minimum and maximum through a Method 3 regulation was to allow them to be adjusted regularly and not require Council approval. (A Method 3 regulation becomes effective when the Council receives it.)

To comply with the Code, this regulation must be amended to remove the specific minimum payment. The criteria for the maximum may remain, but a Method 3 regulation must be promulgated with the specific minimum and maximum. DHHS could also remove the 25% from this regulation, instead saying that it will be a percentage of the average two-bedroom unit and then set the percentage in the Method 3 regulation as well.

If this regulation cannot be amended in time for action on April 20 then the Council will need to extend the time for consideration.

Council staff recommendation: Approve when amended.

Background Information on Current Use of RAP:

Number of Households Served:

FY18	1,961
FY19	1,771
FY20	1,354

As noted earlier, in anticipation of regulation changes to increase the amount, the program stopped pulling names from the waitlist and natural program attrition has reduced the program numbers. In 2020 we accepted 58 exception applications that all came through CES or Housing Stabilization to prevent or end a household experience with homelessness.

Average household size: 2.16 people
Average household income is \$23,407.36

Attached:

Executive Regulation 18-20 – Memo from County Executive and Fiscal Impact Statement	1-4
Executive Regulation 18-20, Underlined and Brackets	5-25
County Code, Section 41A; Rental Assistance Program And General Provisions	26-31




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

February 23, 2021

TO: Tom Hucker, President, County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Executive Regulation 18-20: Rental Assistance- Regulations – Requirements for the Rental Assistance Program

I am attaching for consideration of County Council, Executive Regulation 18-20, Rental Assistance- Regulations – Requirements for the Rental Assistance Program. This regulation updates eligibility for and participation in the Rental Assistance Program consistent with the changes enacted in Bill 25-20, and to set conditions under which benefits may be discontinued or participants may be terminated from the program.

Bill 25-20 made a change to the County Code to conform to County Executive Order 135-19, which stated “no agent or department may condition the provision of County benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by state or federal law, or court order.”

No comments were received during the comment period. If you have any questions, please contact Ms. Leslie Frey, Intergovernmental Relations Legislative Analyst, Department of Health and Human Services, at 240-372-7441 or leslie.frey@montgomerycountymd.gov.

ME:gh

Attachments

**Fiscal Impact Statement
Executive Regulation 18-20**

Rental Assistance Regulations – Requirements for Rental Assistance Program

1. Executive Regulation Summary

Executive Regulation 18-20, Rental Assistance Regulations – Requirements for Rental Assistance Program updates eligibility for and participation in the Rental Assistance program. These changes are consistent with Bill 25-20 and set conditions under which benefits may be discontinued or participants may be terminated from the program.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Currently, the Rental Assistance Program has 953 households enrolled in the program. This is lower than the current program funding which allows up to 1,750 households at a current budget allocation of \$4,000,000. As these regulations allow for the benefit to adjust from an average of \$200 per household per month to \$400 per household per month. The program would be able to serve all existing households without additional funding because:

- a.) there continues to be regular program attrition; and
- b.) with the new regulations, households that don't meet the new guidelines will not be increased to \$400 per month.

The exact number of households that will remain in the program with the regulation's extension is unknown at this time, but for the reasons given above, it will not exceed allowable program funding.

If the program was restored to serving 1,750 households, an estimated additional \$4,000,000 would be needed.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Revenues or expenditures are not expected to change as a direct result of this modification.

4. An actuarial analysis through the entire amortization period for each regulation that would affect retiree pension or group insurance costs.

Not applicable.

5. An estimate of expenditures related to the County's information technology (IT) systems, including Enterprise Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the regulation authorizes future spending.

An increased benefit amount will enable more clients to pay their rent. As a result of more clients remaining housed, fewer clients will experience a housing crisis that will necessitate shelter stay or Permanent Supportive Housing (PSH) services. Fewer clients becoming homeless also means less shelter and PSH costs. Additionally, the increased benefit will enable more clients experiencing homelessness to have additional financial supports to exit homelessness more rapidly.

7. An estimate of the staff time needed to implement the regulation.

It is estimated that staff time to implement this regulation will be minimal and can be achieved with existing staff.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

It is estimated that these changes will not increase staff responsibilities.

9. An estimate of costs when an additional appropriation is needed.

To increase program enrollment back to 1,750 households, an additional allocation of \$4,000,000 would be needed. Until, or if, that additional allocation becomes available, program enrollment will continue to be capped.

10. A description of any variable that could affect revenue and cost estimates.

No program revenues.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a regulation is likely to have no fiscal impact, why that is the case.

Program enrollment will continue to be capped to remain within the existing appropriation of \$4,000,000. No additional staff is needed to implement changes to the program.

13. Other fiscal impacts or comments.


Not applicable.

14. The following contributed to and concurred with this analysis:

Amanda Harris, Chief, Services to End and Prevent Homelessness, Department of Health and Human Services

Ilana Branda, Deputy Chief, Services to End and Prevent Homelessness, Department of Health and Human Services

Deborah Lambert, Senior Fiscal and Policy Analyst, Office of Management and Budget



Jennifer Bryant, Acting Director
Office of Management and Budget

12-15-20

Date



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: Rental Assistance – Regulations – Requirements for the
Rental Assistance Program

Number: 18-20

Originating Department:
Office of Health and Human Services

Effective Date:

Office of Health and Human Services
Montgomery County Regulation on:

RENTAL ASSISTANCE – REGULATIONS - REQUIREMENTS FOR THE RENTAL ASSISTANCE PROGRAM

Issued by: County Executive
COMCOR 41A.05.01

Authority: Code Section 2-42A(e)

Supersedes: Executive Regulation 5-02AM, in part
Council Review Method (1) Under Code Section 2A-15

Register Vol. 38, No. 1

Comment Deadline: January 31, 2021

Effective Date: _____

Sunset Date: None

SUMMARY: This regulation amends Sections 41A.05.01.01, 41A.05.01.02, 41A.05.01.03, 41A.05.01.04, 41A.05.01.05, 41A.05.01.06, 41A.05.01.07, 41A.05.01.08, 41A.05.01.09, 41A.05.01.10, and 41A.05.01.11 of the Code of Montgomery County Regulations to update the regulations concerning eligibility for and participation in the Rental Assistance Program consistent with the changes enacted in Bill 25-20, and to set conditions under which benefits may be discontinued or participants may be terminated from the program.

ADDRESS: Department of Health and Human Services
401 Hungerford Drive
Rockville, Maryland 20850

STAFF CONTACT: Leslie Frey, 240-372-7441 or Leslie.Frey@montgomerycountymd.gov

BACKGROUND: Bill 25-20, signed into law August 7, 2020, modified the eligibility requirements for the Rental Assistance Program, provided that the benefit amount for the Program be established via regulation, and generally amended County law regarding the Rental Assistance Program, necessitating modifications to these regulations.

COMCOR 41A.05.01 Requirements for the Rental Assistance Program

41A.05.01.01 Definitions



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1.1 Definitions

In this regulation, unless more specifically defined, the following words have the meanings stated:

- a. Applicant means a person, other than a recipient, who applies for benefits on behalf of a household. An applicant must be at least 18 years old, reside at the application rental unit and be a member of the household.
- b. [(1)]1. Asset means any property or interest in property, including:
 - A. cash;
 - B. time or demand deposits in a financial institution or money market fund;
 - C. stock;
 - D. bonds;
 - E. shares in a mutual fund;
 - F. trusts; or
 - G. real estate.
- [(2)]2. Asset does not include:
 - A. furniture and furnishings used in the rental unit;
 - B. clothing; or
 - C. one automobile for each member of the household who is a licensed driver.
- c. [Department means the Montgomery County Department of Health and Human Services.] Coordinated Entry means the list of names that is managed by the Montgomery County Department of Health and Human Services of Montgomery County residents experiencing homelessness.



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d. [Director means the Director of the Department of Health and Human Services or the Director's designee.] Department means the Montgomery County Department of Health and Human Services.

e. [Disabled person means any individual who:

- (1) receives disability benefits under the Social Security Act or the Railroad Retirement Act, or from a disability retirement system of a municipal corporation, a county, a state, the federal government, or the District of Columbia; or
- (2) has a physical, mental, or emotional impairment that substantially limits one or more major life activities of the individual as the Department determines after the individual submits a statement of condition of disability from the individual's physician.]

Director means the Director of the Department or the Director's designee.

f. [Eligible household means a household that:

- (1) meets the standards of eligibility as defined in 33.07.01.34 of these regulations;
- (2) conforms to the definition of "household" as defined in Section 1.1.1. of these regulations; and
- (3) resides in an eligible rental unit as defined in Section 1.1.1. of these regulations.

g.] Eligible rental unit means a rental unit in Montgomery County.

[(1)]1. [that conforms to the definition of "rental unit" as defined in Section 1.1.1. of these regulations; and

(2)] for which the household has a written rental agreement[.]; and

2. that maintains all licenses and permits as required by Chapter 29.

3. Eligible rental units include, but are not limited to:



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- A. a detached or attached single-family home or townhouse;
- B. an apartment in a multi-family facility;
- C. a condominium or cooperative unit in a multi-family facility;
- D. a rental mobile home in a licensed mobile home park; or a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park; and
- E. a room or group of rooms in an attached or detached single-family home or townhouse, apartment, condominium or cooperative.

[h.]g.[(1)]1. Gross income means total household income, taxable and nontaxable, from all sources, whether or not reported on a federal or state income tax return, including, but not limited to:

- A. wages and tips received as compensation for employment or services rendered, before taxes and other deductions;
- B. interest and dividends from all financial accounts;
- C. benefits under Supplemental Security, the Social Security Act, or Railroad Retirement Act;
- D. bequests and inheritances;
- E. child or spousal support payments;
- F. recurring monetary gifts and loans (excluding student loans) made to the household by other persons not living in the household to assist with rent, groceries and other living expenses;
- G. strike benefits where there is no employee contribution;
- H. Temporary Cash Assistance [(TCA)], Refugee Assistance and Temporary Emergency Medical and Housing Assistance [(TEMHA)] benefits;



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- I. pensions and annuity benefits, including, veterans, railroad and mine worker benefits;
- J. unemployment compensation benefits;
- K. trust fund disbursements;
- L. capital gains;
- M. net profits from business and property rentals;
- N. [workmen's] worker's compensation benefits;
- O. stipends for educational or research fellowships for living expenses, excluding that portion that covers tuition and required fees;
- P. foster care benefits; and
- Q. net income from self-employment.

[(2)]2. Gross Income excluded from eligibility determination includes:

- A. losses from business, rental, or capital transactions;
- B. third-party payments from someone outside of the household for rent or other expenses. Payments for which the applicant has no discretion over the use of the funds that are given directly to the landlord or other provider;
- C. employment income of household members under 18 years old, unless emancipated;
- D. Pell Grants, Supplemental Educational Opportunity Grants, National Direct Student Loan, State Student Incentive Grant, Guaranteed Student Loans, College Work Study, State, Local and Federal Loans, Grants and Scholarships, Civic and Fraternal Scholarships, Private Company Scholarships, loans with established repayment plans;
- E. Medicare payments deducted from Social Security benefits; and



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F. Nazi Restitution payments to victims of Nazi persecution.

[(3)]3. Allowable Deductions from Gross Income

For the purposes of determining [eligibility] benefit amount, the Department may deduct medical and childcare expenses from household gross income. A deduction may only be granted if the applicant provides documentation that the household makes regular out-of-pocket payments for the following:

- A. [child care] childcare expenses up to the Montgomery County average cost of [child care] childcare, by type of care, as determined by the Working Parents Assistance Program;
- B. medical expenses for doctor and dental fees, prescription drugs and prescribed medical procedures that are not reimbursed by insurance or other sources;
- C. over-the-counter medical products if prescribed by a doctor to treat [an ongoing] a medical condition; and
- D. medical insurance premiums for [the disabled and persons 62 years of age or older] individuals with a documented disability or who are 55 years of age or older.

[i.]h. Household means:

[(1)]1. An individual, or two or more persons, whether or not related, who live together and are subject to the same rental agreement [in an eligible rental unit;] and one member meets at least one of the following criteria:

- [(2)] A. is a [disabled] person with a documented disability; or
- [(3)] B. is a person [62] 55 years of age or older; or
- C. a person who is a participant designated by the Director as eligible for participation.

i. Person with a documented disability means a person who:



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1. receives disability benefits under the Social Security Act or the Railroad Retirement Act, or from a federal, state, or local government disability retirement system; or
 2. has a physical, mental, or emotional impairment that substantially limits one or more major life activities of the individual as the Department determines after the individual submits a statement of condition of disability from the individual's physician.
- j. Recipient means a person who is currently receiving benefits on behalf of a household. A recipient includes a person who reapplies for benefits before the end of the person's eligibility period.
- k. Relative means a parent/step-parent, grandparent, child/step-child, sibling, father-in-law, mother-in-law, son-in-law or daughter-in-law, or spouse.
- [l. Rental unit means a licensed unit occupied by not more than one household which includes, but is not limited to:
- (1) a detached or attached single-family home or townhouse;
 - (2) an apartment in a multi-family facility;
 - (3) a condominium or cooperative unit in a multifamily facility;
 - (4) a rental mobile home in a licensed mobile home park; or a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park; and
 - (5) a room or group of rooms in an attached or detached single family home or townhouse, apartment, condominium or cooperative.]

41A.05.01.02 Eligibility for Rental Assistance

2.1 Eligibility Criteria under Section 41A-3.

- a. [A household] An applicant must meet [all of] the following criteria to be eligible for monthly benefits as authorized by Section 41A-3 of the Montgomery County Code[.]:



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- [(1)]1. [An applicant must be a legal resident of the United States. An applicant who is an undocumented resident may receive assistance if the applicant receives Temporary Cash Assistance (TCA) benefits for a child in the household.
- (2) An applicant must pay rent and occupy an eligible rental unit [in Montgomery County] or have an executed rental agreement or lease for an eligible rental unit as of the date that the benefit will be paid[.];
- [(3)]2. [A household living in a rental unit owned by a relative of any member of the household is eligible only if the rental unit owner lives at the application address. All persons living at the application address will then be considered as one household and must meet the income eligibility criteria. If the related rental unit owner does not live at the application address, the household is not eligible.] An applicant leasing a unit owned by a relative of any member of the household is not eligible;
- [(4)]3. An applicant or any member of the household must not have been previously excluded by the Director from participation in the program as provided in 41A.05.01.06 of this Regulation[.];
- [(5)]4. The actual monthly rent paid by the household, excluding any payments made directly to the landlord on behalf of the household, including any allowance for utilities paid by the tenant, as established in Section 4.3 of these regulations, must exceed the rent-to-income ratios suitable for the household size as established in Section 4.1 of this Regulation[.];
- [(6)]5. A household that rents a room or group of rooms within a detached or attached single-family home or townhouse, apartment, condominium or cooperative must have a separate rental agreement with the property owner. If the household is renting a room or group of rooms from a primary lessee, then the primary lessee must have a written agreement with the property owner to sublet. Each household with its own lease or rental agreement is eligible to be an applicant for the Rental Assistance Program. Otherwise, all occupants must be considered as a single household and must meet the income eligibility criteria established in this section[.];



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- [(7)]6. The rental cost for the unit occupied must not exceed 120 percent of the average cost for a suitable size rental unit calculated in accordance with Section 4.3 of this regulation[.];
- [(8)]7. The value of the assets of the members of the household, after deducting debts owed by the members of the household, must not exceed \$10,000 as of the date the application is approved[.];
- [(9)]8. The combined gross income of the members of the household must not exceed fifty percent of the median income in the Metropolitan Area for a household of comparable size as most recently published by the United States Department of Housing and Urban Development on the date the application is approved[.];
9. An applicant must be experiencing homelessness or the imminent threat of homelessness, including applicants who would become homeless but for their participation in the Rental Assistance Program, and:
- A. a member of the household is a person with a documented disability;
- B. a member of the household is 55 years of age or older; or
- C. a member of the household is a person who is designated by the Director as eligible for participation;
10. If a household receives a benefit prior to the date of enactment of this regulation and the household's rental agreement assistance program benefit expires within six month from the date of enactment but is no longer eligible for the program under this regulation, the household may continue to receive the same benefit amount until one year from the date of enactment of this regulation;
11. An applicant or any member of the household must not be receiving a Housing Choice Voucher; and
12. An applicant must have a referral from the coordinated entry system or from an established referral agency.



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3.1 Application Procedure for Article I

- a. In order to be considered for Rental Assistance Program benefits, an applicant must submit an application on a form provided by the Department, together with supporting documentation or information verifying household income, household assets, and rent paid for the rental unit. The applicant must certify in writing on the application or on an accompanying form that all information reported on the application form is accurate and true. The applicant is responsible for obtaining the landlord's certification.
- b. [(1)]1. The applicant applying for benefits pursuant to Article I of this Chapter must submit any information determined by the Department necessary to verify that all eligibility criteria have been met. At a minimum, all applicants must submit the following documentation for each household member as determined to be applicable by the Department.
 - A. a copy of the most recent Federal tax return, including all attachments filed with the return, or certification that no tax return has been filed for the last three years;
 - B. financial statements documenting assets and indicating interest or dividends earned and the principal account balances;
 - C. documentation of wages, tips and other income for at least 30 days preceding the date of application; and
 - D. any other information as may be required by the Department to determine if all standards of eligibility have been met.

3.2 Approval of Rental Assistance

- a. The Rental Assistance Program manager must certify applications as approved within 30 days of receiving all of the documentation required to determine if the application household meets the established eligibility criteria.
- b. Each applicant must be notified in writing if approved. A copy of the approval notice will also be forwarded to the rental unit landlord.



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- c. Monthly benefit payments begin on the first day of the month following the date of application approval. Benefits must be approved for a maximum period of 12 consecutive months. The program manager may approve benefits for a shorter time period if the manager finds that a change in the household's income or other status may affect eligibility.
- d. Only one household per eligible rental unit may receive benefits.
- e. After notification of application approval, the applicant must notify the Rental Assistance Program when any one of the following occurs before the benefit period expires:
 - [(1)]1. household moves from the application address;
 - [(2)]2. household gross income changes ten percent or more;
 - [(3)]3. household assets increase;
 - [(4)]4. number of household members increases or decreases; or
 - [(5)]5. amount of rent paid increases or decreases.

3.3 Reapplication

- a. A recipient must reapply for benefits:
 - [(1)]1. at the end of each eligibility period; or
 - [(2)]2. at any time a recipient moves from the rental unit for which a benefit is paid.
- b. A recipient must not continue to receive benefits after the expiration of an eligibility period unless the recipient reapplies for benefits during the eligibility period and continues to meet the eligibility criteria then in effect.

3.4 Denial of Application for Rental Assistance

- a. A denial must be based on a determination by the program manager that the applicant is not eligible for benefits or has failed to provide adequate information or documentation with respect to one or more eligibility criteria.



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- b. An applicant who is denied benefits must be notified in writing of the denial by the program manager, or their designee, within 30 calendar days of the application's denial.
- c. The notice must include:
 - [(1)]1. the decision, the reasons for the decision, and regulations supporting the decision;
 - [(2)]2. the right to request an informal case review;
 - [(3)]3. the method by which a case review may be requested;
 - [(4)]4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
 - [(5)]5. the right to appeal an unfavorable decision of a case review by requesting an administrative review hearing;
 - [(6)]6. the right, upon request, to have an interpreter present in an administrative review hearing; and
 - [(7)]7. the waiver of the right to an administrative review hearing if a case review is not timely requested.
- d. The Department may discontinue benefit payments or terminate the recipient from participation in the Program under the following circumstances:
 - 1. The Department may immediately discontinue benefit payments when any one of the following occurs:
 - A. recipient notifies the Department that assistance is no longer required; or
 - B. Department is notified that recipient is no longer residing in the eligible rental unit, except when the recipient is temporarily absent from the rental unit because of institutionalization.



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2. The Department may discontinue benefit payments and terminate the recipient from Program participation when any one of the following occurs:
 - A. household no longer meets all eligibility requirements;
 - B. recipient or any household member fails to provide information required to determine continued eligibility recertification;
 - C. recipient fails to reapply for Program benefit payments before the end of their current eligibility period;
 - D. recipient household is evicted from the rental unit;
 - E. lease is terminated by the landlord or the recipient household; or
 - F. recipient or any member of the household violates the terms of their service agreement.
- e. The Department may discontinue benefit payments, terminate the recipient from the Program, and exclude the recipient from future Program participation for any one of the following reasons:
 1. recipient, or any household member, has improperly obtained benefit payments or improperly used benefit payments; or
 2. recipient, or any household member, is convicted of criminal activity that would adversely affect the health, safety or wellbeing of other persons.
- f. If the recipient or any household member is the victim of domestic violence, dating violence or stalking, the Department may not discontinue benefit payments or terminate Program participation because of the violence committed against them.
- g. A recipient who receives adverse decision under any provision in this section may seek a review of the adverse decision in accordance with the procedures specified in this regulation.

41A.05.01.04 Amount of Rental Assistance Benefit

4.1 Benefit Calculations for the Rental Assistance Program



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The amount of monthly benefits that may be granted for Rental Assistance recipients is that amount by which the monthly rent exceeds, less any other housing subsidizes, including any payments made by sublessors, or payments made on the household's behalf directly to the property:

- a. [35] 40 percent of the combined [gross] monthly gross income of a [one-person] household of no more than three members; or
- b. [32.5] 35 percent of the combined monthly gross income of a [two person] household with four or more members.;
- c. 30 percent of the combined monthly gross income of a three person household;
- d. 27.5 percent of the combined monthly gross income of a four person household; or
- e. 25 percent of the combined monthly gross income of a five or more person household.]

4.2 Method of Benefit Payment

- a. Benefit payments must be made by monthly checks payable jointly to the head of household and either the:
 - [(1)]1. Owner of the rental unit;
 - [(2)]2. Rental agent or management authority for the rental unit;
 - [(3)]3. Rental facility or;
 - [(4)]4. Primary leaseholder from whom the household is a sublessee.
- b. Benefit payments may be paid as a single payee check to the owner of the rental unit, rental agent or management authority or primary leaseholder, at the request of and with the written permission of the recipient.

4.3 Rental Cost Limitations

The monthly rental cost used to calculate benefits or determine eligibility is subject to the following limitations.



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- a. Garage, pet, pool, housekeeping, food, health aide services or other such fees must not be included in the rental cost.
- b. The actual rent paid for a rental unit, including any allowance for utilities paid by the tenant, must not exceed 120 percent of the average cost for a suitable size rental unit. The average Montgomery County rental costs must be determined periodically by the Department as most recently published by the Montgomery County Department of Housing and Community Affairs.
- c. Utilities (lights, cooking fuel, water/sewer, and heating fuel) not included in the rent and paid for by the tenant must be included in the actual rental cost whenever the program manager determines that the cost of the utilities will have an effect on the provision of benefits. Utility allowances must be determined periodically by the Department as most recently published by the Housing Opportunities Commission. Department of Housing and Urban Development Rental Assistance (Section 8) and Public Housing utility allowance chart.
- d. If the rental unit occupied by the household is larger than that required for the household, the average cost for a suitably sized unit must be used. The suitable size is determined by the number and composition of the household as follows:
 - [(1)]1. One or two persons – one-bedroom unit.
 - [(2)]2. Three or four persons – two-bedroom unit.
 - [(3)]3. Five or six persons – three-bedroom unit.
 - [(4)]4. Seven persons or more – four-bedroom unit or larger, depending on the number of additional household members.

4.4 Limitations on Benefit Payment Amounts

The limitations on benefits are as follows:

- a. The maximum benefit authorized pursuant to Section 41A-5 of the Montgomery County Code is [\$200.00] 25 percent of the average rent for a two-bedroom unit in Montgomery County a month as defined annually by the Department of Housing and Community Affairs, subject to available funds.



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b. Benefit payments less than [\$50] \$100 a month must not be paid.

c. Only one household per eligible rental unit may receive benefits.

4.5 Payment Upon Death or Institutionalization of the Recipient

If a recipient of benefits dies or becomes institutionalized during the eligibility period for which benefits have been approved:

a. Benefit payments may be paid until the expiration of the eligibility period, upon written request, to:

[(1)]1. the spouse, as long as the spouse continues to reside in the rental unit; and

[(2)]2. another surviving member of the household who continues to reside in the rental unit.

b. At the end of the approval period, the household must reapply to determine if the remaining household members continue to be eligible for benefits.

4.6 Availability of Benefits

a. Benefits for this program are subject to the availability of funds appropriated and any limitations set on the number of recipients of the program by the County Executive.

b. At any time that the Director estimates that the amount of money needed for benefit payments for new and renewal applicants to the Rental Assistance Program, when added to the projections of benefit expenditures required for those households already in the Rental Assistance Program, is likely to exceed the amount of unexpended appropriated funds for the remainder of the fiscal year, the Director may order the program administrator to defer commencement of payments of benefits to new or renewal applicants, and to place those newly approved eligible applicants onto a waiting list. When the Director determines that one or more additional households may be put into the program without causing the total expenditures to exceed the amount of appropriated funds, eligible applicants, to the extent funding permits, must be processed to receive benefits.

41A.05.01.05 Waiver Authority



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5.1 Waivers

The Director may waive any Rental Assistance eligibility requirement upon a finding of [financial or other hardship] good cause.

5.2 Waiver Procedures

All waivers must be requested in writing. The waiver must clearly state the eligibility requirement for which the waiver is being requested [and the hardship created if the benefit were denied]. Upon a finding of good cause, the Director may grant a waiver, which must be in writing, and must clearly state the reason the requirement is being waived.

41A.05.01.06 Penalties

6.1 Falsification of Information

Any person who knowingly makes or helps another person to make a false or misleading statement in order to obtain benefits under Chapter 41A:

- a. upon conviction shall be guilty of a class A violation;
- b. may be required to repay the County any rental assistance benefit improperly paid in reliance on the false or misleading statement; and
- c. may be required to pay the County interest on the total amount improperly paid at the rate of one percent per month on the outstanding balance owed until the total benefit improperly paid is repaid.

6.2 Discontinuation of payments and exclusion from future participation in the Rental Assistance Program

- a. If the program manager believes any household has improperly obtained benefits, improperly used benefits, or has violated provisions of Chapter 41A, the program manager may discontinue benefits or request the Director to exclude the household from future participation in the Rental Assistance Program.
- b. The applicant or recipient who receives an adverse decision under any provision in this section may seek review of the adverse decision in accordance with the procedures specified in 41A.05.01.07 and 41A.05.01.08 of this regulation.



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41A.05.01.07 Right of Recipients to In-Person Case Review

7.1 Notice to Recipients of Adverse Action

- a. The program manager must notify a recipient in writing of an adverse action. An adverse action includes a denial of a reapplication of benefits, a decision that the recipient failed to provide documentation requested in a reapplication, a decision to suspend, discontinue, reduce, or terminate assistance, a decision to seek to recover an overpayment or over issuance of rental assistance, or a decision that the program intends to take any adverse action listed in 41A.05.01.06, 6.2, of this regulation.
- b. The notice of adverse action must include:
 - [(1)]1. the decision, reasons for the decision, and regulations supporting the decision;
 - [(2)]2. the right to request an in-person case review;
 - [(3)]3. the method by which an in-person case review may be requested;
 - [(4)]4. the right to be assisted by legal counsel, a relative, a friend, or other individual;
 - [(5)]5. the right to appeal an unfavorable decision of an in-person case review by requesting an administrative review hearing;
 - [(6)]6. the right, upon request, to have an interpreter present in any in-person case review or administrative review hearing; and
 - [(7)]7. the waiver of the right to an administrative review hearing if a case review is not timely requested.

7.2 In-Person Case Reviews

- a. A recipient has 30 calendar days from the date of the program manager's notice of adverse action to request an in-person case review. Such request must be made in writing or in person to either the program manager or the caseworker. The Department must, upon request, assist a recipient with requesting an in-person case



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review and provide an interpreter to assist the recipient with requesting an in-person case review and attend the in-person case review.

- b. An in-person case review consists of an informal, in-person meeting of the recipient with a Rental Assistance Program manager or the caseworker. The program manager or the caseworker must review the oral and documentary information pertinent to the application[,] and must explain the basis for the proposed adverse action. The recipient must be provided the opportunity to present his or her reasons and explanations for why the adverse action is not warranted.
- c. Within 15 calendar days of the in-person case review, the program manager must send the recipient a notice of the decision from the in-person case review. The notice must state the basis for the decision. If the decision is adverse to the recipient, the notice must state that the recipient has the right to appeal the decision by requesting an administrative review hearing. The program manager must include a copy of the form for appealing the decision with the notice.

41A.05.01.08 Administrative Review Hearing

8.1 Appeals by Applicants and Recipients

- a. An applicant or recipient who requested a case review in a timely manner may appeal an adverse case review decision by filing a written request for an administrative review hearing with the program administrator, within 30 calendar days of the date of the notice of the adverse case review decision. Such request must be on the form provided with the notice of the adverse case review decision.
- b. The Department must, upon request, assist an applicant or a recipient with requesting an administrative review hearing or provide an interpreter to assist the applicant or recipient with requesting an administrative review hearing and attend the administrative review hearing.

8.2 Conduct of the Administrative Review Hearing

The Director will conduct the administrative review hearing. During the administrative review hearing, the Director must review the decision of the Rental Assistance Program manager, the relevant Rental Assistance Program file, and the record of the case review. The Director must also hear and consider materials presented and arguments made by the appellant as to why the decision of the Rental Assistance Program manager is in error and



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should be reversed. The Director must conduct the hearing in a fair, even-handed manner, giving the appellant an adequate opportunity to fully present the appellant's case, with due regard for the appellant's education, experience and communication skills.

41A.05.01.09 Implementation of Adverse Action Against Recipients

- 9.1 Except as provided in 41A.05.01.06, 9.3, and in 41A.05.01.06 of this regulation, no adverse action must be taken against a recipient until the expiration of the following periods, to the extent applicable:
- a. the period for requesting an in-person case review;
 - b. the appeal period following an adverse decision in an in-person case review; or
 - c. issuance of the decision in an administrative review hearing.
- 9.2 Except as provided in 41A.05.01.06 of this regulation, a recipient will incur no repayment liability until, as applicable, the later of the date of:
- a. the notice of the decision in the in-person case review; or
 - b. the decision in the administrative review hearing.
- 9.3 The program manager may discontinue benefits immediately when:
- a. a recipient notifies the program manager that assistance is no longer required;
 - b. the rental unit landlord verifies that the recipient is no longer a tenant at the recipient's latest rental address; or
 - c. benefit checks are returned by the post office as undeliverable and attempts to contact the recipient are unsuccessful.

The immediate discontinuation of benefits does not change the recipient's right to request an in-person case review as provided in 41A.05.01.07.

41A.05.01.10 Legal Challenge



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If an applicant or recipient is aggrieved by a final decision of the Department in an administrative review hearing, that applicant or recipient may file an original complaint in the Circuit Court for Montgomery County, Maryland.

41A.05.01.11 Effective Date

11.1 This regulation takes effect 30 days after approved by the County Council and any benefit adjustment takes effect on the first day of the next month.

Approved:

Handwritten signature of Marc Elrich in black ink.

Marc Elrich, County Executive

2/23/21

Date

Approved as to form and legality:

Handwritten signature of Amy J. Diber in blue ink.

Office of the County Attorney

2/10/21

Date

Article I. Rental Assistance Program.

Sec. 41A-1. Purpose of the Rental Assistance Program.

The purpose of this Article is to establish a Rental Assistance Program in the Department of Health and Human Services to assist eligible persons or households to pay the rent on dwelling units that are appropriate to their needs. The Council intends that the Rental Assistance Program be periodically modified by regulations adopted by the County Executive to meet changes in the level of appropriated funding, the anticipated number of households eligible for benefits, the current average costs of rental housing, and the extent to which the available funding can provide a useful level of assistance to benefit recipients. (1985 L.M.C., ch. 50, § 2; CY 1991 L.M.C., ch. 16, § 1; 1993 L.M.C., ch. 1, § 1; 1995 L.M.C., ch. 13, § 1; 2000 L.M.C., ch. 3, § 1.)

Editor's note-Section 5 of 1995 L.M.C., ch. 13, reads as follows: "Sec. 5. A regulation that implements a function assigned to the Department of Health and Human Services by 1995 LMC ch. 13 continues in effect but is amended to the extent necessary to provide that the regulation is administered by the Director of the Department of Health and Human Services."

Sec. 41A-2. Definitions.

In this Article, the following words have the meanings indicated:

(a) Applicant means a person, commonly the head-of-household, who applies for rental assistance on behalf of a household.

(b) (1) Asset means any property or interest in property, including:

- (A) cash;
- (B) a time or demand deposit in a financial institution or money market fund;
- (C) stock;
- (D) a bond;
- (E) a share in a mutual fund; or
- (F) an interest in a trust; or
- (G) real estate.

(2) Asset does not include:

- (A) furniture and furnishings used in the rental unit;
- (B) clothing; or
- (C) one automobile for each member of the household who is a licensed driver.

(c) Department means the Department of Health and Human Services.

(d) Director means the Director of the Department of Health and Human Services or the Director's designee.

(e) Eligible Household means a household that meets the standards of eligibility adopted in regulations, and includes one or more of the following:

(1) a person with a documented disability and any others who live with the person under the same rental agreement;

(2) a person 55 years of age or older, and any others who live with the person under the same rental agreement; or

(3) a person who is a participant designated by the Director as eligible for participation.

(f) Eligible rental unit means a rental unit in the County:

(1) that conforms to the standards adopted in regulations;

(2) for which the household has a rental agreement; and

(3) that maintains all licenses and permits as required by Chapter 29.

(g) (1) Gross income means the total household income from all sources, whether or not reported on a federal or state income tax return.

(2) Gross income does not include losses from business, rental, or capital transactions and certain third-party, educational, and restitution payments specified in regulations.

(h) Person with a documented disability means a person who:

(1) receives disability benefits under the Social Security Act or the Railroad Retirement Act, or from a federal, state, or local government disability retirement system; or

(2) has a physical, mental, or emotional impairment that substantially limits one or more major life activities of the individual as the Department determines after the individual submits a statement of condition of disability from the individual's physician.

(i) Recipient means a person who is receiving benefits on behalf of a household under this Article. A recipient includes a person who reapplies for benefits before the end of that person's eligibility period. Each recipient must be at least 18 years old, a resident of the County, reside at the application rental unit, and be a member of the household.

(j) Rental unit means a unit occupied by not more than one household, which includes:

(1) a detached or attached single family home or townhouse;

(2) an apartment in a multi-family facility;

(3) a condominium or cooperative unit in a multi-family facility;

(4) a rental mobile home in a licensed mobile home park, or a rented mobile home pad on which the applicant has placed a mobile home in a licensed mobile home park; or

(5) a room or group of rooms in an attached or detached single family home or townhouse, apartment, condominium or cooperative. (1985 L.M.C., ch. 50, § 2; CY 1991 L.M.C., ch. 16, § 1; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1; [2002 L.M.C., ch. 20](#), § 1; [2020 L.M.C., ch. 23](#), §1.)

Editor's note-Section 5 of 1995 L.M.C., ch. 13, reads as follows: "Sec. 5. A regulation that implements a function assigned to the Department of Health and Human Services by 1995 LMC ch. 13 continues in effect but is amended to the extent necessary to provide that the regulation is administered by the Director of the Department of Health and Human Services."

Note-Formerly, § 41A-1.

Sec. 41A-3. Eligibility for Rental Assistance Program benefits.

(a) A household is eligible to receive Rental Assistance Program benefits if the household meets the standards established in regulations. The standards of eligibility must consider, but are not limited to, the following elements:

- (1) gross income limits for varying household sizes;
 - (2) the combined assets of the members of the household;
 - (3) appropriateness of the size of the rental unit for the number of persons in the household; and
 - (4) whether the actual rent paid exceeds a monthly rent limit for the size rental unit that has been set by regulation.
- (b) Not more than one household in a rental unit may be approved for or receive benefits under this Chapter during any month. (1985 L.M.C., ch. 50, § 2; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1; [2020 L.M.C., ch. 23, §1.](#))
- Note-Formerly, § 41A-2.

Sec. 41A-4. Application for benefits.

- (a) Each applicant for the Rental Assistance Program must submit, on a form provided by the Department, an application that must contain all information, documentation and certifications necessary to decide eligibility and benefit levels.
- (b) The applicant must sign the application and attest that the information provided is true and complete.
- (c) Any household that has received Rental Assistance Program benefits must reapply after each approval period expires to verify if the household continues to meet the applicable eligibility criteria. A recipient who moves from a rental unit for which benefits have been received must reapply to receive benefits for any other unit. (1985 L.M.C., ch. 50, § 2; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1.)
- Note-Formerly, § 41A-3.

Sec. 41A-5. Rental assistance benefits.

The Rental Assistance Program administrator must approve or disapprove each application received in accordance with the applicable regulations, and must notify each applicant in writing of any approval or disapproval. The administrator may authorize the Department of Finance to make benefit payments to eligible households as follows:

- (a) Benefits under this Article must be paid in accordance with criteria set by Method 2 regulation. However, the specific minimum and maximum benefit that may be paid to an eligible household must be determined annually by Method 3 regulation.
- (b) Benefits under this Article must be paid monthly in a form set by regulation.
- (c) Benefit payments below an amount specified by regulation must not be made.
- (d) A household receiving benefits must notify the Department of changes in its gross income as required by regulation.
- (e) If a recipient of Rental Assistance Program benefits dies or becomes institutionalized during the period for which benefits have been approved, the remaining benefit payments may be paid to a surviving member of the household if the household continues to reside at the application rental unit. At the end of the approval period, the household must reapply to see if the remaining household members continue to be eligible for Rental Assistant Program benefits. (1985, L.M.C., ch. 50, § 2; 1988 L.M.C., ch. 2, § 1; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1; [2020 L.M.C., ch. 23, §1.](#))

Note-Formerly, § 41A-4.

Secs. 41A-6-41A-8. Reserved.

Article III. General Provisions.

Sec. 41A-14. Regulations.

The County Executive must adopt regulations under method (2) to implement this Chapter. (CY 1991 L.M.C., ch. 38, § 1; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1.)

Note—Formerly, § 41A-20.

Sec. 41A-15. Report; annual review of benefit levels.

The County Executive during the budget process must report to the County Council on the Rental Assistance Program and the Handicapped Rental Assistance Program. In the operating budget submitted annually to the Council, the Executive must review Rental Assistance Program and Handicapped Rental Assistance Program benefit levels and must propose any adjustment necessary to achieve the goals of each program. (CY 1991 L.M.C., ch. 38, § 1; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1.)

Note—Formerly, § 41A-21.

Sec. 41A-16. Waivers.

After finding financial or other hardship, the Director may waive any eligibility requirement under this Chapter. (1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1.)

Note—Formerly, § 41A-22.

Sec. 41A-17. Appeals.

(a) The Executive must establish by regulation a case review and appeal procedure that:

(1) provides each applicant who has been denied new rental assistance benefits an opportunity for an informal case review and, if the case review upholds the denial of benefits, an administrative hearing; and

(2) prohibits involuntary termination of rental assistance benefits to a recipient until the recipient has received:

(A) an opportunity for an informal, in-person case review; and

(B) if the case review upholds the termination of benefits, a final decision after an administrative hearing.

(b) The prohibition in subsection (a)(2) on pre-hearing termination of benefits to a recipient does not apply to:

(1) a voluntary termination requested by a recipient; or

(2) an involuntary termination under special circumstances described in the regulation, such as fraud.

(c) An applicant or recipient aggrieved by a final decision of the Department after an administrative review hearing may seek judicial review by filing an original complaint in the Circuit Court. Any party to the proceeding in the Circuit Court may appeal the decision of the Circuit Court to the appellate courts of Maryland pursuant to applicable provisions of

the Maryland Rules of Procedure. (1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1; 2002 L.M.C., ch. 20.)

Note—Formerly, § 41A-23.

Secs. 41A-18—41A-19. Reserved.

Sec. 41A-20. Penalties.

(a) Any person who knowingly makes, or helps another person make, a false or misleading statement to obtain assistance under this Chapter:

(1) has committed a class A violation;

(2) may be required to repay the County any Rental Assistance Program or Handicapped Rental Assistance Program benefit improperly paid in reliance on the false or misleading statement; and

(3) may be required to pay the County interest on the total amount improperly paid at the rate of one percent per month on the outstanding balance owed until the total benefit improperly paid is repaid.

(b) The County may enforce this Section by appropriate legal action. Any person liable under subsection (a) is also liable for all costs of any enforcement proceeding.

(c) If the Director finds, after giving the affected household reasonable written notice and an opportunity for an impartial hearing, that any household has improperly obtained Rental Assistance Program or Handicapped Rental Assistance Program benefits or otherwise materially violated this Chapter, the Director may discontinue benefits to that household and exclude that household from receiving future Rental Assistance Program or Handicapped Rental Assistance Program benefits. (CY 1991 L.M.C., ch. 38, § 1; 1993 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 3, § 1.)

Note—1993 L.M.C., ch. 1, § 1, renumbered this section from § 41A-22 to § 41A-24 and 2000 L.M.C., ch. 3, § 1 renumbered this section from § 41A-24 to § 41A-20.