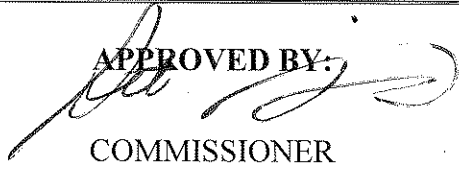


NEW YORK CITY DEPARTMENT OF HOMELESS SERVICES

PROCEDURE NO. 12-400

SUBJECT: SINGLE ADULTS ELIGIBILITY PROCEDURE	APPLICABLE TO: SINGLE ADULT INTAKE FACILITIES	EFFECTIVE DATE: November 14, 2011
ADMINISTERED BY: ADULT SERVICES DIVISION	APPROVED BY:  COMMISSIONER	

I. PURPOSE

This Procedure sets forth the standards by which DHS Single Adult Intake facilities (“DHS”) will determine whether individuals who apply for Temporary Housing Assistance (“THA”) are eligible for temporary emergency shelter pursuant to the *Callahan* Consent Decree and New York State Social Services Regulation 18 N.Y.C.R.R. Section 352.35 (“Regulation”), 94 ADM-20, 96 ADM-20, and 05 ADM-07.

This Procedure is consistent with the purposes underlying the Regulation as further delineated in 94 ADM-20; namely, that:

- shelter is a costly yet critical benefit, the supply of which is not unlimited; therefore, social services districts, such as New York City, must ensure that THA is being provided only to persons who have no other available housing or the means to secure other housing; and
- the applicant has responsibilities to cooperate with the assessment conducted by the City and to use available resources and/or seek necessary assistance to avoid homelessness wherever possible; therefore, each applicant must clearly demonstrate that s/he is faced with an immediate need for THA, has made reasonable efforts to secure housing and cannot access any other housing even on a temporary basis.

To implement the Regulation’s purposes and to execute the City’s responsibilities as delineated in the *Callahan* Consent Decree, DHS will utilize this Procedure to determine whether an applicant for THA is an eligible homeless person. This determination will be based on an assessment of whether the applicant has a viable housing option where s/he can live even on a temporary basis and/or whether s/he possesses sufficient financial resources to secure such housing. (See Section III, below). This Procedure also sets forth the requirements with which applicants for shelter must comply in order to receive THA. (See Section II, below)

II. INVESTIGATION OF ELIGIBILITY

In order to determine each applicant's eligibility for THA, DHS will investigate whether the applicant has other available housing or the means to obtain other housing.

A. DHS Obligations

DHS will base its eligibility determination on the totality of the applicant's circumstances, with an analysis of each applicant's situation in accordance with all relevant factors, including those enumerated in Section III, below.

DHS will conduct a thorough review of the applicant's situation and available housing resources including conducting a face-to-face interview with the applicant; in-person or telephone interviews with third parties who may be sources of housing for the applicant; review of relevant documents and information; and, field investigations when necessary.

NYS Office of Temporary and Disability Assistance 94 ADM-20 at pages 22 to 22.1, as amended on December 27, 1996, states as follows:

As a general rule, individuals and families must be responsible for making their own housing arrangements. Districts have a limited ability to provide housing and are neither expected nor obligated to provide temporary housing assistance unless it is clearly demonstrated that the person requesting assistance is faced with an immediate need for housing, has made reasonable efforts to secure housing and cannot access any other housing even on a temporary basis.

Each district must provide temporary housing assistance only to persons who can establish that they are without housing at the time assistance is requested and have sought and cannot access any other housing even on a temporary basis. Persons who resided in their own or shared housing immediately prior to requesting temporary housing are presumed to not be in immediate need of assistance except in cases where a fire, flood or other sudden emergency has rendered the previous housing uninhabitable. Such persons must establish that they cannot return to their prior housing.

DHS will document its eligibility determination and the findings on which it is based in the applicant's case record, and provide the applicant with written notice of the Agency's findings that documents the reason(s) for the agency's determination.

If an applicant is not able to complete the application/investigation process due to mental or physical impairment or if the DHS staff person interviewing the applicant has reason to believe the applicant may be suffering from mental or physical impairment that is impairing his/her ability to participate in the application/investigation process, a licensed social worker will assess

the applicant to determine if the applicant is able to cooperate with the process. This assessment can occur at any time during the application and investigation process. If no licensed social worker is on site at the time of the application and an applicant with verified or suspected mental or physical impairment is experiencing difficulty complying with or completing the application process, his/her immediate need for shelter will be met until the assessment can occur. Should the applicant's condition prevent him/her from being able to complete the application and investigation process, licensed staff will work with the applicant to determine whether s/he has a viable housing option. If this is the case and the applicant is found ineligible for THA, DHS staff will, when necessary, arrange transportation to the housing option and arrange support services, as needed.

B. Applicant Obligations

As detailed in 94 ADM-20 and 96 ADM-20, all applicants for THA are required to cooperate with DHS' eligibility process by providing all information and documentation necessary to determine the applicant's eligibility for THA. If the applicant is unable to produce required documentation, s/he must explain the reason. Without a valid reason, failure to produce documentation constitutes a failure to cooperate. Where the applicant needs assistance in obtaining information or documentation relevant to the verification of eligibility, DHS will assist the applicant to obtain such information and documentation.

NYS Office of Temporary and Disability Assistance 94 ADM-20 at page 22.1, as amended on December 27, 1996, goes on to state what the obligations of the applicant are when applying for THA:

All applicants must demonstrate by clear, convincing and credible evidence that they have actively sought and are unable to access any other temporary or permanent housing, including housing in which they had previously resided and temporary accommodations provided by friends or relatives.

When an applicant has left shared housing, factors such as the duration of the stay, nature of the relationship of the applicant and the primary tenant, conditions in the household and the credibility of the applicant and the primary tenant all must be considered, and a determination of eligibility made based upon the totality of the circumstances.

A primary tenant's claim, oral or written, that the family can no longer reside in the shared housing is not, by itself, sufficient to establish that the housing is no longer available.

All applicants must cooperate in completing an assessment of their need for THA by, among other things, providing information regarding their prior housing arrangements and financial resources. 96 ADM 20 (pages 4-5) states that "when an individual or family fails to cooperate in

completing the assessment, and the failure is not due to a verified mental or physical incapacity of the individual or family member, the SSD must deny THA.”

III. ELIGIBILITY CRITERIA

DHS will determine whether an applicant is eligible for THA based on the totality of the circumstances underlying each individual’s application for shelter. Depending on the applicant’s stated reasons for seeking shelter, DHS will consider the following factors.

A. Available Housing Option(s)

DHS shall investigate all residences where the individual has resided in the year prior to the date of the application for temporary housing assistance. In addition, based on the totality of the circumstances DHS may consider an address to be viable even if the applicant resided there previous to the year prior to the date of application. In order for DHS to find the individual ineligible because of other available housing, the credible evidence must establish that other housing is available to the individual at one or more specified locations. DHS must provide the individual with a written decision explaining the reasons for its eligibility determination.

An individual cannot elect to be homeless, for eligibility purposes, by not utilizing other resources to obtain housing. DHS may explore a housing resource for availability and propose additional actions, either on the part of the individual or a primary tenant, to make the housing option suitable for the applicant to reside there on a temporary or permanent basis. Examples of such proposed actions include reconfiguring furniture or sleeping arrangements.

A primary tenant’s claim, oral or written, that the applicant can no longer reside in the viable housing option is not, by itself, sufficient to establish that the housing is no longer available (as stated in 94 ADM-20, page 22.1)

Residential treatment, including detoxification services, deemed necessary by a qualified DHS staff person or third party evaluator shall be considered an available housing option, albeit a temporary one, that meets the applicant’s immediate need for housing provided that a bed can be secured.

DHS will investigate whether any of the locations in the applicant’s one-year housing history is an available housing option. The eligibility determination will assess the totality of the applicant’s circumstances, including the factors listed below:

1. Tenancy

If an applicant has tenancy rights at any housing option, that residence will be deemed the viable housing option and the applicant will be found ineligible, provided there is no imminent threat to health or safety. Other situations related to tenancy will be addressed as follows:

- a. Other Housing - If an applicant has a viable housing option in supportive housing, community residence, nursing home, adult home, SRO, or other similar institutional or community living situation but elected to leave for reasons other than imminent threat to health or safety, s/he will be found

ineligible, provided there are no active orders of protection or vacate orders that would prevent his/her return.

- b. Eviction - If an applicant states that s/he cannot return to a viable housing option because s/he was evicted or the primary tenant (PT) was evicted, DHS will investigate this claim by asking the applicant or the PT to provide evidence of the eviction, such as a Marshal's Notice of Eviction. In the case of an impending eviction, DHS will contact the Marshal to ascertain when the eviction will occur. Absent an eviction, the viable housing option is an available housing resource even if only on a temporary basis.

Documentation of prior steps in the eviction process, such as a petition filed in the Housing Part of NYC Civil Court indicating that a proceeding is pending to evict the applicant or PT, is not sufficient to show unavailability of the viable housing option since a court has not yet ruled on the landlord's petition for relief. A summary dispossess notice is also not sufficient to show unavailability since a tenant can cure the purported breach of the lease before an eviction proceeding is effective.

A THA applicant's choice to vacate a housing option voluntarily prior to eviction (e.g., to return their keys) will not necessarily preclude this address from being considered a viable housing option. If the housing is still available, the applicant will be expected to retrieve their previously submitted keys from the landlord and reside at that address until the event of a formal eviction actually occurs.

- c. Non-Lease Tenancy Rights - If an applicant gives as a reason for homelessness that s/he cannot return to a viable housing option because s/he is not on the lease, DHS will assess whether this is a valid occupancy restriction that would render the viable housing option unavailable. Ultimately, the burden is on the applicant to establish that a viable housing option is not available.

2. Overcrowded/Unsafe Conditions

If an applicant gives as a reason for homelessness that s/he cannot return to a viable housing option because it is overcrowded or unsafe, DHS will investigate the claim. DHS will assess information obtained from the applicant as well as the primary tenant or other members of the primary tenant's household (collectively, "PT") about the conditions, the physical layout and the other occupants of the viable housing option.

3. Domestic Violence

DHS will immediately refer applicants who allege they are victims of, or at risk of, domestic violence ("DV") to HRA's No Violence Again ("NoVA") unit where a trained domestic violence

counselor will interview them. If an applicant is referred to NoVA, DHS may meet the applicant's immediate need for shelter (in a borough other than where the alleged abuse occurs) until NoVA renders its determination. DHS will suspend its investigation during the pendency of the NOVA investigation. In the event NoVA precludes a particular housing option, DHS will find the housing option unavailable to the applicant; however, preclusion of a particular housing option does not in and of itself render the applicant eligible for THA unless DHS determines that the applicant has no other available housing or the means to obtain it. If NOVA finds the single adult to be in need of domestic violence services but there is no room in a DV shelter, the applicant will be found eligible for shelter.

4. Health and Safety

If (1) an applicant gives as a reason for homelessness that s/he cannot return to a housing option because returning there would pose an immediate and significant threat to the health or safety of the applicant; or (2) the PT states that the applicant's return to the housing option poses such a threat to the PT's health or safety, DHS will investigate such claims by referring the applicant to an appropriate medical or social services professional for evaluation to determine whether the applicant or PT has an impairment that would render the housing option unavailable to the applicant.

B. Financial Resources

DHS will conduct an investigation of each applicant's financial resources to determine whether the applicant has financial resources sufficient to obtain other housing. The purpose of this section of the Procedure is to comply with 96 ADM-20, which directs local social service districts to "ensure that THA is being provided only to persons who have no other available housing *or the means to secure other housing*" (96 ADM-20, page 2, emphasis added.) An applicant for THA who has significant income or assets, even if s/he finds him/herself without a place to live, will be expected to use the income and/or assets to secure temporary housing while searching for a more permanent housing situation.

1. Income

DHS will apply the appropriate income and resource guidelines to determine eligibility for safety net assistance, including emergency safety net assistance. Applicants who are ineligible for safety net assistance due to income may be deemed ineligible for temporary housing assistance.

2. Assets

Any single adult applicant with on-hand assets in excess of \$2,000 must utilize his/her resources to reduce or eliminate his/her need for emergency shelter. On hand assets include, but are not limited to, cash, checking accounts, savings accounts, and certificates of deposits. This standard conforms to the long-standing asset test used by the New York City Human Resources Administration (HRA) to determine eligibility for cash assistance for single adults in the community.

When assessing assets, applicants must produce bank statements or other documentary evidence of available assets.

DHS will seek to verify the information produced by the applicant or find unreported assets through a review of HRA databases, Worker Connect, and other available data sources, including but not limited to Lexis/Nexis.

3. Financial Resources Determination

If an applicant's income or assets exceeds one or both of the eligibility thresholds described above, the applicant may be found ineligible for THA and served with a 4002 Notice of Action ("4002 Notice") denying his/her application for THA. However, in the event that an applicant's income or assets is not immediately available at the time of the application but will become available in the near future, DHS shall meet the applicant's immediate need for shelter while conducting an investigation and ensuring that the resources in fact become available.

IV. APPLICATION AND ELIGIBILITY DETERMINATION PROCESS

A. Diversion and Bridging Efforts

Prior to or concurrent with the application process, DHS will provide applicants with preventive services designed to assist the applicant to return to the community and therefore avoid the need for THA. Applicants will be referred to diversion staff from HRA and/or other on or off-site diversion and prevention services that are appropriate for the applicant's situation. The diversion services are aimed to assist applicants in exploring options other than shelter and availing themselves of opportunities to remain housed in the community.

B. Application

Applicants will complete a Temporary Housing Application (THA) and an Intake or Eligibility Determination Questionnaire (EDQ) that collects a one year housing history. This application will also contain a release that the applicant must sign authorizing DHS to disclose and collect medical and other personal information in conducting its eligibility investigation. As per 96 ADM-20 at page 4, applicants:

must cooperate in securing requested documentation for such things as income, resources, unavailability of alternate housing, and physical or mental incapacity, collateral sources of documentation if necessary, etc. to enable [DHS] to determine eligibility for [shelter].

If [the applicant] is unable to produce required documentation, they must be able to explain the reason. Where the applicant needs assistance in obtaining information or documentation relevant to the verification of eligibility, [DHS] will attempt to assist the applicant to obtain such documentation.

Applicants who do not comply with the application process will be found ineligible based on non-cooperation, unless the reason for non-cooperation is mental or physical impairment as assessed by a qualified mental health or medical professional.

C. Investigation

DHS eligibility staff will conduct telephone interviews with relevant contacts for each residence listed on the one-year housing history in order to verify the dates and conditions of the applicant's stay.

Field investigations will be conducted at DHS's discretion. DHS may choose to conduct a field investigation when an applicant makes an allegation of overcrowded or unsafe conditions that cannot be verified over the phone or through collateral sources.

For the purpose of an eligibility determination, potential housing options will not be limited to the information that is reported in the one-year housing history. Information that is obtained via the investigation may also reveal a viable housing option for an applicant (e.g., a house owned by the applicant where the applicant has not lived for more than one year.)

D. Eligibility Recommendation

Based on these Adult Eligibility Guidelines and the totality of the circumstances surrounding the application, DHS Eligibility Specialists will make an eligibility recommendation to the Supervisor. The possible eligibility recommendations are as follows:

1. Eligible – the applicant is in need of THA.
2. Ineligible – the applicant is not in need of THA or has been non-cooperative.
3. Investigation incomplete/Meet the applicant's immediate need for THA while completing the investigation – the investigation is still underway and the applicant's immediate need for THA will be met until a determination can be made.

E. Supervisory Review and Approval

In all cases, a DHS supervisor must review the findings of the investigation and approve the recommended determination. Where DHS staff is unsure as to what determination should be made, they should consult with a supervisor or, if a supervisor is unavailable, a member of the DHS Office of Legal Affairs. All supervisory approvals must be indicated by a dated signature and be retained in the case record.

F. Written Notice of Determination

DHS must provide all applicants with notification of DHS' determination. Notification must be provided in the form of a 4002 Notice, which will include a description of the applicant's appeal rights. For denials of THA, the 4002 Notice will include a reason for DHS' determination, a statement of the applicant's right to an agency conference pursuant to Section V below, and a description of the applicant's appeal rights.

G. Non-Cooperation Due to Mental or Physical Impairment

DHS will follow the guidance of 96 ADM-20 (page 4) in addressing applicants who claim or appear to have mental or physical impairment:

Where physical or mental incapacity is claimed, or suspected by the SSD, it may require the applicant to participate in an evaluation to determine if a physical or mental impairment is present.

Lack of cooperation is grounds under 96 ADM-20 (pages 4-5) to determine an applicant ineligible:

When an individual or family fails to cooperate in completing the assessment, and the failure is not due to a verified mental or physical incapacity of the individual or family member, the SSD must deny THA.

To implement this directive, DHS will include in the eligibility staffing pattern licensed social workers who will be available when an applicant claims to have a mental or physical impairment or when an eligibility specialist suspects that an applicant has such an impairment. The role of the licensed social worker will be to assess the applicant and render a determination whether the applicant is able to cooperate in the investigation.

If the assessment results in a determination that the applicant is capable of cooperating and completing the investigation, the investigation will resume as quickly as possible.

If, on the other hand, the licensed social worker finds that the applicant has a mental or physical impairment that prevents the applicant from cooperating with the investigation or using his/her available income or assets, the licensed social worker will make a determination whether the applicant needs to be referred immediately for medical services or whether they are able to be safely served in the shelter system. Applicants who need immediate medical intervention will be referred to an appropriate provider. Applicants who are deemed unable to cooperate with the investigation but can be served safely in the shelter system will be referred back to the eligibility specialist and the applicant's immediate need for shelter will be met until the investigation can be completed.

If an applicant's condition prevents him/her from being able to complete the application and investigation process *and* s/he has a viable housing option, DHS staff will work with the applicant to return him/her to the housing option, provided it is a safe and suitable option. In this instance, DHS will, where necessary, arrange transportation to the housing option and refer the applicant to support services as needed.

DHS will arrange for licensed social workers to be available during periods when large numbers of applicants are entering intake. If no mental health staff is on site at the time of the application and an applicant with claimed or suspected mental or physical impairment is experiencing difficulty cooperating or completing the application process, his/her immediate need for shelter will be met until the assessment can occur.

V. AGENCY CONFERENCE REGARDING DENIALS OF THA

DHS staff shall inform on the 4002 Notice all applicants determined ineligible for THA that they are entitled to a DHS conference. During the conference, a DHS official who was not directly involved in making the original eligibility determination will (i) review the determination made

by DHS staff; (ii) permit the applicant to present any new information or documentation relevant to the determination; and (iii) accept any documents submitted by the applicant. After the conference, DHS shall uphold the prior determination, render a new and different decision, or meet the applicant's need for temporary shelter while DHS investigates new information provided by the applicant during the conference.

VI. FAIR HEARINGS

On the 4002 Notice, DHS shall inform all applicants for THA that they have a right to request a State Fair Hearing before an administrative law judge to appeal DHS' decision. Applicants who request a Fair Hearing will not be granted THA while the hearing is pending.

VII. RE-APPLICANT PROCEDURE

DHS will use the guidance of 05-ADM-07 to address the issue of re-applications for THA made within a 90-day time period. When assessing any re-applicant's immediate need for THA, DHS will consider threats to the health and safety of the re-applicant, the sufficiency of available information concerning the re-applicant's eligibility for THA, and the possibility that material changes(s) may have taken place since the time of the previous application.

A. Action to Be Taken by DHS

If a current applicant has previously applied for THA within the past 90 days and been found ineligible because of an available housing resource, DHS will meet this re-applicant's immediate need for THA when:

1. The re-applicant asserts new facts establishing that the re-applicant is a victim of domestic violence and the alleged perpetrator of the violence lives in the same residence where the re-applicant lived immediately prior to submitting the application or is aware of the re-applicant's current address and presents a clear and ongoing threat to the re-applicant; or,
2. The re-applicant asserts new facts establishing that the re-applicant or the PT has been evicted from the residence where the re-applicant lived immediately prior to submitting the application.

B. Supervisory Review and Approval

A DHS Supervisor must review the assessment and approve the determination of whether the applicant has an immediate need for shelter. Where DHS staff is unsure as to what determination should be made, they should consult with a supervisor or, if a supervisor is unavailable, a member of the DHS Office of Legal Affairs.

C. Written Notice of Determination

DHS must provide all re-applicants with notification of its determination. Notification must be provided in the form of a 4002 Notice, which will include a reason for the determination.

D. Eligibility Investigation for Re-Applicants

DHS will investigate the re-applicant's assertions during the course of its eligibility investigation pursuant to the processes described in this Procedure.