



# Asset Management Notice

To: All Owners and Managers

Notice # 2020-15

From: Bob Conroy, Director of Asset Management

Issued: September 8, 2020

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## I. MF COVID-19 Rent Relief Program Expansion UPDATE

As you may know, MaineHousing expanded our previous COVID-19 Rent Relief Program. The program referenced in this notice is for renters who live in developments with MaineHousing financing and who cannot afford to pay their rent due to circumstances related to the COVID-19 pandemic.

This program provides up to \$1,000 per month for a maximum of three (3) months for rent not covered by any other Federal, State or Local program. The three month period is for prior months and/or the current month. The applicant is the renter and the benefit is paid directly to the property management company. If the property management company agrees to participate in the program, they postpone the balance of additional rent due, not forgiving it, and further agree not to evict for non-payment of rent for the month(s) for which this funding was applied.

This program is different from the Expanded COVID-19 Rent Relief Program, which is also known as the Governor's Rent Relief Program. For this program, tenants are referred to their property management company where they are provided an application to fill out and return to their property manager. From there the property manager submits the application to MaineHousing with the attached form.

Attached please find the updated FAQ's. Our website has been updated to include the following:

**Revised application** - [https://mainehousing.org/docs/default-source/asset-management/forms/mf---rent-relief-application.pdf?sfvrsn=42018e15\\_4](https://mainehousing.org/docs/default-source/asset-management/forms/mf---rent-relief-application.pdf?sfvrsn=42018e15_4)

**Transmittal form** – [https://mainehousing.org/docs/default-source/asset-management/forms/mf-rent-relief-transmittal-form.pdf?sfvrsn=4c018e15\\_4](https://mainehousing.org/docs/default-source/asset-management/forms/mf-rent-relief-transmittal-form.pdf?sfvrsn=4c018e15_4)

Marketing Flyers for the program in the following languages:

[COVID Rent Relief Marketing Flyer - English](#)

[COVID 19 Rent Relief Marketing Flyer - Arabic](#)

[COVID 19 Rent Relief Marketing Flyer - French](#)



[COVID-19 Rent Relief Marketing Flyer - Khmer](#)  
[COVID 19 Rent Relief Marketing Flyer - Lingala](#)  
[COVID 19 Rent Relief Marketing Flyer - Portuguese](#)  
[COVID 19 Rent Relief Marketing Flyer - Somali](#)  
[COVID 19 Rent Relief Marketing Flyer - Spanish](#)  
[COVID 19 Rent Relief Marketing Flyer - Vietnamese](#)

Please contact your Asset Manager with any questions about this program.

## II. IRS Temporary Relief of Tax Credit Requirements

In response to the COVID-19 pandemic, the IRS issued Notice 2020-53 on July 1, 2020. This notice provides temporary relief from some of the requirements of Section 42 of the Internal Revenue Code regarding the Low Income Housing Tax Credit Program. **This guidance is not applicable to units administered under applicable FedHOME or Tax-Exempt Bond programs.**

The following guidance is provided in the notice:

### **INCOME RECERTIFICATIONS**

An Owner of a low-income building is not required to perform income recertifications for the period beginning on April 1, 2020 and ending on December 31, 2020. The Owner must resume the income recertifications as due after December 31, 2020 or as required by the Agency. MaineHousing will require a Tenant Self Certification Form to be completed for each tenant file during this period of time if the project is not exempt from recertification requirements (i.e. 100% Low Income). **Please note** that this is for recertifications only, new move-ins require a full Tenant Income Certification.

### **COMPLIANCE MONITORING**

MaineHousing is not required to conduct compliance monitoring inspections or file reviews in the period beginning on April 1, 2020 and ending on December 31, 2020. The Agency must resume compliance monitoring inspections and reviews after December 31, 2020 or sooner as required by the Agency.

### **COMMON AREAS AND AMENITIES**

If an amenity or common area in a low-income building or project is temporarily unavailable or closed during some or all of the period from April 1, 2020 to December 31, 2020, in response to the COVID-19 pandemic, and not because of other noncompliance for § 42 purposes, this temporary closure does not result in a reduction of the eligible basis of the building.

A copy of the full IRS Notice can be found here: <https://www.irs.gov/pub/irs-drop/n-20-53.pdf>

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## COMPLIANCE Q & A WITH THE IRS

Following the issuance of Notice 2020-53, the IRS answered the following questions:

### A. INCOME RECERTIFICATIONS

**Question:** Owners are not required to perform income recertifications between April 1 and December 31 of this year. Do owners need to perform income recertifications skipped during this period after December 31, and if so, what timeframe does the owner have for completing them? In other words, are income recertifications not performed between April 1 and December 31 of this year forgiven, or are owners required to perform them next year instead?

In response to this question, IRS indicated that the income recertifications do not need to be made up because the requirement to perform them during this time period is waived.

### B. COMPLIANCE-MONITORING

According to IRS Notice 2020-53, for purposes of § 1.42-5, an Agency is not required to conduct compliance monitoring inspections or reviews in the period beginning on April 1, 2020, and ending on December 31, 2020. The Agency must resume compliance monitoring inspections or reviews as due under § 1.42-5 after December 31, 2020.

Question 1: Does the word "reviews" in this section refer to tenant file reviews, or is the relief in this section limited to physical inspections only?

In response to this question, IRS indicated that the word "reviews" in this section refers to tenant file reviews.

Question 2: Agencies are not required to conduct compliance monitoring inspections or reviews between April 1 and December 31 of this year. Do agencies need to conduct the inspections or reviews skipped during this period after December 31, and if so, what timeframe does the agency have for completing them? In other words, are compliance monitoring inspections or reviews not performed between April 1 and December 31 of this year forgiven, or are agencies required to perform them next year (essentially doubling the workload for 2021)?

In response to this question, IRS indicated that the compliance monitoring inspections or reviews do not need to be made up because the requirement to perform them during this time period is waived.

**MaineHousing Note:** Although the IRS does not require the review/inspection to be conducted or made up, other funding requirements may supersede the IRS and require it to be completed. MaineHousing has elected to proceed with tax credit management and occupancy reviews (MORs) in 2020 for properties with FedHOME, HTF, or bond



**financing. All delayed inspections and any MORs not completed in 2020 due to COVID-19, will require a make-up inspection or review in 2021.**

In addition to the notice above, the IRS and Treasury have issued proposed guidance that will relax the minimum compliance monitoring sampling requirement for purposes of physical inspections and file reviews.

Under these proposed regulations, the minimum number of low income units that must be included in the random samples when MaineHousing conducts physical inspections or file review is the lesser of the applicable REAC sample number or 20 percent of the low income units in the project/BIN, rounded up to the next whole number.

Although the IRS proposes changes to how to determine the number of units to inspect, they did not change the 15 day notification requirement.

### **III. CDC Eviction Moratorium**

On September 1, 2020, the Centers for Disease Control and Prevention released an Order to temporarily halt all residential evictions to prevent the further spread of COVID-19, until December 31, 2020. The Order will be published in the Federal Register on September 4, 2020.

The Applicability Section states, a landlord/owner of a residential property, or other person (including corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals) with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

Covered individuals include any tenant, lessee, or resident of a residential property who provides--to their landlord, the owner of the residential property, or other person with a legal right to pursue eviction or a possessory action--a declaration under penalty of perjury indicating that:

- 1) the individual has used best efforts to obtain all available government assistance for rent or housing;
- 2) the individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- 3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
- 4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
- 5) eviction would likely render the individual homeless— or force the individual to move into and live in close quarters in a new congregate or shared living setting— because the individual has no other available housing options.



This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order and does not apply to American Samoa (which has reported no cases of COVID-19, until such time as cases are reported.) The Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19 and does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

This Order does not preclude evictions based on a tenant, lessee, or resident:

- 1) engaging in criminal activity while on the premises;
- 2) threatening the health or safety of other residents;
- 3) damaging or posing an immediate and significant risk of damage to property;
- 4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
- 5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

The CDC Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Order can be found here: <https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19>

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## **Q&A ON MORATORIUM REQUIREMENTS** *From the NY Times*

### **Who is eligible?**

You must meet a five-pronged test.

You need to have used your “best efforts” to obtain any and all forms of government rental assistance.

You can’t “expect” to earn more than \$99,000 in 2020, or \$198,000 if you’re married and filing a joint tax return. If you don’t qualify that way, you could still be eligible if you did not need to report any income at all to the federal government in 2019 or if you received a stimulus check this year.



You must be experiencing a “substantial” loss of household income, a layoff or “extraordinary” out-of-pocket medical expenses (which the order defines as any unreimbursed expense likely to exceed 7.5 percent of your adjusted gross income this year).

You have to be making your best efforts to make “timely” partial payments that are as close to the full amount due as “circumstances may permit,” taking into account other nondiscretionary expenses.

Eviction would “likely” lead to either homelessness or your having to move to a place that was more expensive or where you could get sick from being close to others.

### **A lot of that is pretty subjective. If it’s a close call, who decides?**

Landlords who disagree with renters’ self-assessments could try to evict nonpaying tenants by arguing that they are not a “covered person” within the order’s scope and dare them to fight back legally. Then it could be up to a housing court judge to decide if a renter is eligible or if the landlord can, in fact, evict.

### **How do I prove to my landlord that I’m eligible?**

You can use the [declaration form](#) that the C.D.C. published on its website.

Soon after the order appeared, the Legal Innovation and Technology lab at Suffolk University Law School created an [interactive tool](#) that can help people determine if they are eligible. It can also generate a declaration to give to a landlord.

### **The sample declaration form does not say anything about whether I need to prove my hardship to my landlord. Should I attach bank statements or other documents?**

No, not to the declaration — at least not at first. The way the order is written means you need not lay out specifics in your declaration, said Emily Benfer, a visiting professor of law at Wake Forest University.

If the landlord challenges your initial assessment, however, you should provide “reasonable” specifics to prove your eligibility, according to senior administration officials who helped write the order.

### **Who should make a declaration?**

The order says every adult who is on the lease should draft and sign a separate declaration.

### **I have a roommate. How do the rules work for us?**

The order does not deal with roommates directly, but the officials clarified that the income cap was \$99,000 per roommate. As for who should pay what if just one person can't pay in full, the specifics may depend on the terms of the lease, any written agreement between you and your roommate, and applicable state or local law.

Eric Dunn, director of litigation for the National Housing Law Project, said it was possible that housing court judges would interpret the order expansively in this context. For example, consider a scenario where one roommate would become homeless if evicted but the other could move in with parents in an uncrowded home. In that instance, he said, the second roommate could not truthfully sign the declaration.

So would only the first roommate receive protection from the moratorium? "This would be an absurd result, and regulations should be interpreted to avoid absurd results," Mr. Dunn said. He predicted that courts would dismiss eviction cases filed against tenant households where at least one member has signed a declaration.

### **I'm in a pretty bad way. Can I stretch the truth some?**

You shouldn't. The order makes a point of noting that the declaration "is sworn testimony, meaning that you can be prosecuted, go to jail or pay a fine if you lie, mislead or omit important information."

### **What do I do with the declarations once they are done?**

Email, send or hand them to the landlord in a way that allows you to get proof that the landlord received them. That way, there will be no question as to whether you did what you were supposed to do. Make sure you keep a copy for yourself.

### **Then what?**

Keep paying as much as you can. Otherwise, you risk failing the eligibility test, which says you should be trying to make partial payments to the best of your ability.

### **Can the landlord still evict me for reasons other than nonpayment?**

Yes. All the usual rules about criminal behavior or disruptions or destruction of property still apply. And it's possible that a landlord will look hard for some other reason to start the eviction process, so it's wise to follow every term of the lease, as well as any other building or property rule.

Amy Woolard, a lawyer and policy coordinator for the Legal Aid Justice Center in Charlottesville, Va., warned of one issue that she and her colleagues frequently see cited in eviction cases: people not on the lease who are living at the property. This could be an issue if you're hosting guests — like a family member who has already been evicted elsewhere.



**Will interest or penalties accrue if I don't pay the rent in full?**

The order does not prevent landlords from charging fees, penalties or interest “under the terms of any applicable contract.” Nor does it place any restrictions on how high they can go. Check your lease to see if there is any mention of such charges.

**Will I have to pay everything I owe all at once in January?**

You might. The order specifically mentions this possibility. And the National Rental Home Council, a trade group for landlords who own single-family properties, said in a statement Wednesday that “once the moratorium expires, renters will owe back rent for several months.”

**Does the order halt evictions that are already in process?**

Yes, according to administration officials.

**Does the order apply to every landlord and every residential renter in the country?**

No. Aside from the income caps, your local rules may apply instead. If you're in a state, territory or tribal area that [already has](#) a moratorium in place that provides the same or better level of protection, then that more local action will take its place. Local jurisdictions are also still free to impose stronger restrictions than the federal order. California's [moratorium](#) goes through the end of January, for example.

The federal moratorium doesn't apply in American Samoa, though it will if it reports its first coronavirus cases.

**I'm living in a motel right now. Does the order apply to those properties?**

No. The order specifically excludes hotels and motels.

**What about Airbnb rentals and other similar properties?**

The order excludes any “guesthouse rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal or local jurisdiction.”

**What if my landlord sends me an eviction notice anyway?**

Seek counsel. You can search for a low- or no-cost legal assistance office near you via the Legal Services Corporation's online [map](#). Just Shelter, a tenant advocacy group, also offers [information](#) on local organizations that can help renters.

A lawyer can also help if a landlord tries a different approach. For instance, a landlord might try to sue in small claims court over partial payments, without filing an eviction notice that might be illegal under the order, Mr. Dunn said.

**Does the order specify the size of the penalties that landlords may be subject to?**

Yes. An individual landlord could be subject to a fine up to \$100,000 if no death (say from someone getting sick after eviction) results from the violation, or one year in jail, or both. If a death occurs, the fine rises to no more than \$250,000. If it's an organization in violation, the fines are \$200,000 or \$500,000.

**Is the order legal?**

The White House and the C.D.C. think so. It is possible that landlord industry groups or others will sue to stop it, in which case it will be up to the courts to decide.

**Could some local housing judges simply ignore the order?**

Lawyers on the ground say they would not be surprised to see that in smaller jurisdictions. "Then it would be up to the tenant to scrape together enough resources to try to file in federal court or seek an injunction from another authority in their state's judicial system," said Rebecca Maurer, a lawyer in Cleveland.

**When does the order take effect, and how long does it last?**

It takes effect as soon as it is published in the Federal Register. The order says that will happen on Sept. 4. The order applies through Dec. 31, and it's possible that it could be extended.

**I'm dizzy from all of the various local, state and federal orders. Is this the last of them?**

Maybe not. Congress could pass a new relief package that would supersede this order.

**IV. Attachments:**

- COVID 19 MH Financed Property FAQs

*Please note that MaineHousing provides notices as a service to our partners. Notices are not intended to replace ongoing training and do not encompass all compliance and regulatory changes that may occur on the wide arrange of housing programs in which we work. MaineHousing recommends partners establish an ongoing training program for their staff.*

*MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, physical or mental disability, age, familial status or receipt of public assistance in the admission or access to or treatment in its programs and activities. In employment, MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability or genetic information. MaineHousing will provide*

*appropriate communication auxiliary aids and services upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Louise Patenaude, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.*



**MaineHousing**  
mainehousing.org | 207-626-4600

# COVID 19 MH Financed Property FAQs

## **Eligibility:**

**Income & Assets:** Income eligibility restrictions apply. Please refer to the income eligibility chart below. Your property manager can also answer any questions about your eligibility for the program. If you can afford to pay your rent from income of any sort or from savings or other liquid assets, you are not eligible.

**Location:** Some municipalities may have their own rent relief program. They currently [Lewiston](#) and [Portland](#).

**Ability to Pay:** You may qualify if you are unable to pay your rent due to circumstances directly related to the COVID-19 pandemic. Examples of changes in circumstances include but are not limited to:

- being laid off;
- having your place of employment closed;
- reduction in hours of work;
- having to stay home to care for your children because your day care or school has closed; or other loss of income due to the COVID-19 pandemic.

**Some Subsidized Housing Excluded:** You are not eligible if you get a Section 8 Voucher, live in a Section 8 apartments, get Rental Assistance from USDA's Rural Development, or live in public housing.

**Mobile Home Pad Rents:** If you own a mobile home and rent space in a mobile home park you may be eligible for this program. If you are eligible for the program, it is only for lot rent or the mobile home rent. Park fees are not included.

## **Frequently Asked Questions:**

### **1) How much will the program pay?**

The program may pay up to \$1,000 per month per household for a maximum of three months (for up to a total of \$3,000).

### **2) How do I Apply?**

Fill out the application from your property manager and return it to them. If you have questions or need help, contact the management company.

### **3) Can I apply for rent due in the same month or only rent that is already due?**

If you owe rent for past months, you can apply for help for those months for up to three months. You can also apply for the current month at the same time. If you think that you will not be able to pay your rent for an upcoming month, you may apply on or after the first day of that month.

### **4) How often can I apply?**

Once a month for a maximum of three (3) months for a maximum total of \$3,000.

### **5) My rent is more than \$1,000. What about the rest of it?**

## COVID 19 MH Financed Property FAQs

Please talk with your property manager about different payment options. This benefit will help but you still must pay the rest of your rent.

### **6) If the \$1,000 maximum benefit is all I can pay right now, will I be evicted?**

You will not be evicted for the month that your property manager accepts the payment. By accepting payment, they agree not to evict you for non-payment of rent for the month for which the payment is made. This protection from eviction does not extend to evictions due to other non-compliance with the lease provisions or failure to pay rent for other months' rent not covered in this program.

### **7) How will the application be processed? How will my rent get paid?**

When you submit your application to your property manager, they will process the application with MaineHousing. The property management company will agree to accept the payment and to not evict you for any rent remaining due that month. Once they fill out required paperwork, MaineHousing will pay them directly. It is very important to remember that payments cannot be made until all required documentation has been submitted by the applicant and the property manager.

### **8) How long will the program run?**

The program will run until the funds are exhausted or the program ends.