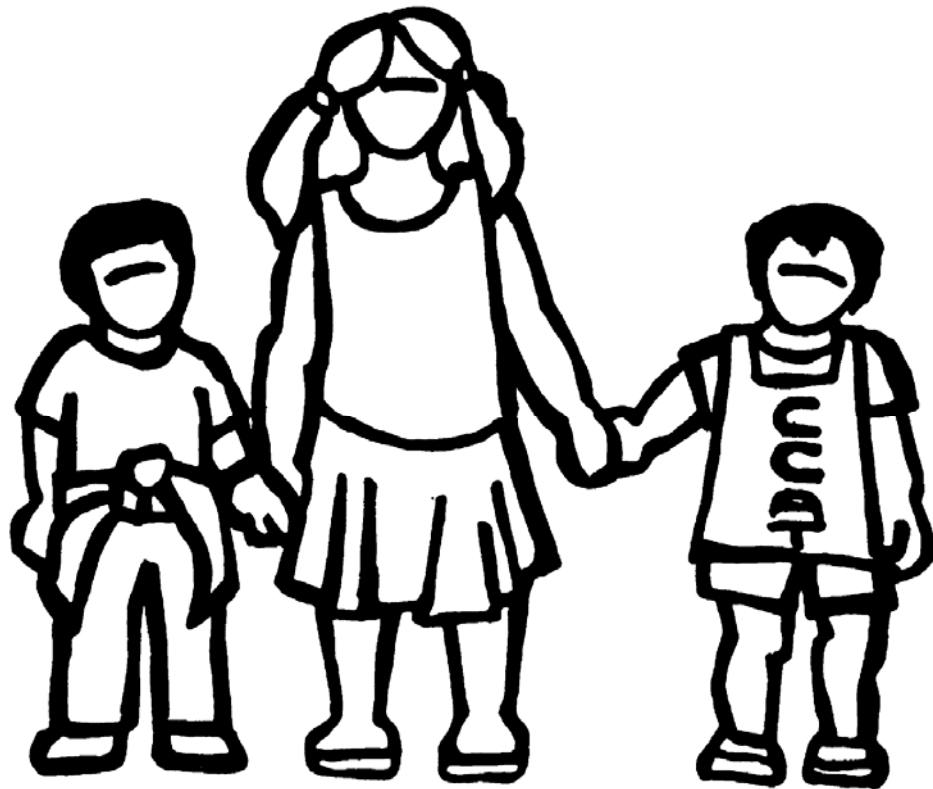


# Transfers in Public Housing

A Know Your Rights Guide for  
Public Housing Tenants in Massachusetts



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Because laws and regulations change, make sure you have the most up-to-date version of the booklet by checking: [www.MassLegalHelp.org](http://www.MassLegalHelp.org).

## **Using This Book**

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The purpose of this booklet is to give tenants in public housing in Massachusetts answers to questions about transfers. As a tenant, you have important rights under the law. You may have additional rights in your lease and your housing authority's transfer policy.

These rights, however, have meaning only when you know and use them.

This booklet is available on **[www.MassLegalHelp.org](http://www.MassLegalHelp.org)**. Please distribute it freely to tenants and organizations working with tenants. We also urge you to use this booklet to hold trainings for tenants in your community.

# Residents Seeking to Transfer

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## 1. How do I find out what my housing authority's transfer policy is?

If you need to transfer to another public housing apartment or the housing authority is requiring you to transfer, your first step should be to find out what your housing authority's transfer policy is. You have a right to this information. Ask your housing authority for a copy of its transfer policy.<sup>1</sup> Also read your lease because there will be information about transfers there, too.

In addition to checking your housing authority's transfer policy and your lease, you should also read this booklet to see if you have other rights. To figure out what your rights are, you first need to know whether you live in state or federal public housing. In these materials, differences between state and federal transfer rules are explained.

### **Do you live in state or federal public housing?**

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To figure out whether you live in state or federal housing, check your lease and other forms that you have signed, such as an income verification form.

- If you see words like "federal public housing" or "HUD form no. 111" (HUD is the federal Department of Housing and Urban Development), you probably live in **federal** public housing.
- If you see words like "state-assisted housing" or "Department of Housing and Community Development" (DHCD, the Massachusetts housing agency), you probably live in **state** public housing.

If it isn't clear from your lease or other forms relating to your tenancy, contact your tenant organization, if you have one, or the housing authority and ask someone there. It is perfectly reasonable to ask whether your housing is state or federal public housing because it can be confusing.

## 2. What types of transfers are there?

### State public housing

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If you live in state public housing, there are several different types of transfers.<sup>2</sup>

- **Serious conditions:** There are conditions in your current apartment that pose a serious and immediate threat to your family’s health or safety that cannot be repaired within a reasonable time. Examples of such conditions include, but are not limited to: fire damage and condemnation.
- **Harassment or Abuse:** You or someone in your household is being threatened in some way. This includes domestic violence.
- **Family size changes:** The number of people in your apartment has changed and it is no longer the “appropriate size” for your household. In other words, your apartment is too big or too small.
- **Medical reasons:** You or someone in your household has a compelling and documented physical or mental illness or impairment that could substantially be improved by a transfer to another available unit.
- **Management requested:** These are transfers that your housing authority can make at any time for a *sound administrative reason*. Reasons for an administrative transfer can include: your apartment is too big or small, harassment or abuse, or maintenance issues.<sup>3</sup>
- **Good cause:** A transfer for *good cause* is a transfer that you request for medical reasons or because your family size changes (both reasons are described above).<sup>4</sup>

### Federal public housing

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If you live in federal public housing, there are a number of different types of transfers. Some are required (*mandatory*). Others are optional.<sup>5</sup>

The following transfer policies are **mandatory**, which means that a housing authority is required to transfer a tenant:

- **Emergency conditions:** There are conditions in your apartment, building, or development that pose a serious and immediate threat to your family’s health or safety that cannot be repaired within a reasonable time. Examples of such conditions include: fire damage, gas leak, no heat during the winter, no water, serious water leaks, and condemnation.<sup>6</sup>
- **Emergency:** An emergency transfer to protect members of the household from domestic violence, or an attack, or to alleviate a medical condition of life-threatening nature.<sup>7</sup>

- **Family size changes:** You are *underhoused*, which means that your family size has become too large for your apartment. Or you are *overhoused*, which means that your family size has become too small for your apartment. Housing authorities are required to make these types of transfer.<sup>8</sup>
- **Demolition, revitalization or rehabilitation:** A housing authority is allowed to transfer tenants in developments facing demolition, sale, rehabilitation, or revitalization.<sup>9</sup>

The following types of transfer policies are **optional**, which means that a tenant may request this type of transfer:

- **Reasonable accommodation:** When you or someone in your household needs to move to a different apartment to accommodate a disability. An example would be if you need to move to a ground floor apartment because you cannot climb stairs.
- **Split family:** Where a housing authority permits a very large family that has two adults to split into two households and be transferred to two apartments.<sup>10</sup> (Not all housing authorities have this policy.)
- **Resident-initiated:** Where you request a transfer that is not a necessity.
- **Incentive:** These are transfers to new or rehabilitated apartments that the housing authority can make for residents with excellent residency histories.

### 3. Can I transfer for medical reasons or if I have a disability?

Yes. You may request a transfer if someone in your household has a physical or mental health reason or if a member of your household has a disability. The legal principle to know is that the housing authority has an obligation to provide a *reasonable accommodation* for people with a physical or mental disability.

A reasonable accommodation is a change or adjustment that a housing authority makes that allows someone with a disability to use and enjoy their housing.<sup>11</sup> Examples of transfers based on a reasonable accommodation include:

- Transferring to a first-floor apartment or building with an elevator when it is impossible for someone to climb stairs.
- Transferring to another development run by the same housing authority to move a person who is recovering from drug addiction out of a neighborhood where former associates still engage in drug activity.

- Transferring to a larger apartment in order to have an extra bedroom for a personal care attendant.

If you request a transfer for medical reasons, be prepared to get documentation of your medical illness or impairment, such as a letter from a doctor or health care professional describing your health problem and what housing conditions are required to help it.

Some housing authorities have different priorities for different types of medical transfers. If a resident's medical condition is getting far worse due to existing housing conditions and could be improved by transferring, the housing authority may treat this as an "emergency" transfer. If, on the other hand, the medical condition is stable but could improve, the housing authority may still transfer the resident, but on a slower track. You need to check your housing authority's policy to see if there are different priorities for different types of medical situations and what is needed to qualify for each kind of priority.

### **State public housing**

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Under state regulations, a transfer for medical reasons is considered a transfer for *good cause*. A transfer for *good cause* may be made between elderly and family public housing, if there are no appropriately sized apartments in the same type of housing.<sup>12</sup> If you feel that the apartment offered is not the appropriate size, you have a right to file a grievance.

### **Federal public housing**

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If a resident with a disability has requested a reasonable accommodation and the housing authority proposes a transfer as a way to accommodate the resident, the resident is not **required** to accept the transfer offer.<sup>13</sup> However, the resident should consider whether the transfer may make sense, and if it does not, should suggest alternatives (for example, alterations to the existing unit that might make it accessible to the resident, or a transfer to a location closer to ongoing treatment).

## **4. Can I transfer if I am facing domestic violence?**

### **State public housing**

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In state public housing, you have a right to request a transfer if you or a member of your household is suffering from harassment or abuse.<sup>14</sup> You also have a right to "reasonable and appropriate" assistance from the housing authority if you are a victim of domestic violence.<sup>15</sup> This assistance includes the right to a prompt rekeying of your locks—upon your request—if you have obtained a restraining



order against a member of your household. You may also ask the housing authority not to charge you (*waive*) the cost of rekeying.<sup>16</sup>

You need to think about what's really needed for your safety. Sometimes if you stay in the same development, or even in the same community, the person committing violence may be able to find you. One option may be to switch to a Section 8 voucher or other "mobile" rental assistance with which you can relocate within or outside Massachusetts. (Many housing authorities have very limited Section 8 vouchers available at present, but there are sometimes special resources available for those at extreme risk who need to relocate.) Another option is where two housing authorities cooperate to transfer a state public housing resident from one community to another. This has happened occasionally in the past with proper documentation from law enforcement and the assistance of the state Department of Housing and Community Development. In addition to pursuing abuse prevention remedies under the Abuse Prevention Law,<sup>17</sup> you can ask the housing authority to seek an order barring a non-household member from the development,<sup>18</sup> or can sue the housing authority for failing to take action to bar the person.

You may also want to talk to the housing authority about being named as the head of household once the abuser has left the unit. Talk with the housing authority about this. Keep in mind, the housing authority may feel that it has to give the abuser a hearing before removing him as the named head of household.

### **Federal public housing**

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If you live in federal public housing, you have a right to request a transfer if you are facing domestic violence. This would be considered an emergency transfer.<sup>19</sup>

HUD guidelines say that housing authorities are allowed to adopt a transfer policy that includes a preference for victims of domestic violence. They can also have a policy that allows them to transfer you to another development, another neighborhood, or even another housing authority. A housing authority may also choose to give you a Section 8 voucher.<sup>20</sup>

You may also want to talk to the housing authority about being named as the head of household once the abuser has left the unit. Keep in mind, the housing authority may feel that it has to give the abuser a hearing before removing him as the named head of household.

## 5. Is my apartment the right size for my household?

There are two terms that housing authorities often use when an apartment is either too small or too big for a family:

- *Underhoused* is when your apartment does not have enough bedrooms for your household. The apartment is too small.
- *Overhoused* means that your apartment has more bedrooms than your household size needs.

### State public housing

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If you live in state public housing and are trying to figure out whether your apartment is an appropriate size for your household, the following requirements apply:<sup>21</sup>

- Members of your household who are of the opposite sex may share a bedroom (but are not required to). Ordinarily, a husband and wife or adult partner must share a bedroom, as must children under the age of 8. There may be exceptions, however, where medically justified. For example, a spouse may have a breathing disorder and should not be required to share a sleeping area; or a child may have been the victim of sexual abuse and should not share a bedroom with another child.
- People of the same sex must share a bedroom except in two situations: 1) if you are over 21, you do not have to share a bedroom with your child, grandchild, or legal ward; or 2) if you can provide reliable medical documentation that sharing a bedroom would have a severe adverse impact on a person's mental or physical health. In addition, some housing authorities have obtained permission (*waivers*) from the Department of Housing and Community Development allowing people of the same sex to have separate bedrooms where they are of different generations or there is a great difference in age.
- Each bedroom must have at least 70 square feet of floor space, and there must be at least 50 square feet of floor space for each person in the bedroom.
- Only bedrooms may be used for sleeping purposes. A living room, kitchen, bathroom, or hallway cannot be used for sleeping.

### Federal public housing

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In federal public housing there are no specific rules concerning how many people can live in a public housing apartment or share a bedroom. Your housing authority must, however, state the minimum and maximum number of people who may live in an apartment in its Admissions and Continued Occupancy Policy.

Your housing authority may also address certain issues about how many people can occupy your apartment, as long as these standards do not discriminate against families with children.<sup>22</sup> In general, two people are expected to share a room. But, in addition, policies may allow:<sup>23</sup>

- Babies under a certain age may share a bedroom with parents or two brothers and sisters.
- People who have a disability or special medical needs may have a separate bedroom.
- A parent who is the single head of household may not be required to share a bedroom with his or her child, although they may choose to.
- A live-in aide may be assigned a separate bedroom, unless a family agrees to accept a smaller unit.
- Some housing authorities provide that family members from different generations are not required to share a bedroom, even if they are of the same gender.

## **6. Can I transfer if my family size increases?**

You can request a transfer if your family size increases and your apartment is too small. However, if you are approved, you may have to wait awhile because larger apartments are harder to come by. It also may be that your housing authority does not have apartments that are large enough for your family. A housing authority may refuse to permit you to add members to your household until you are transferred into an appropriately sized unit.

# Housing Authority Initiated Transfers

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## 7. Can a housing authority require me to transfer to another apartment?

Your housing authority may be able to transfer you to another apartment in the following circumstances:

- **Family size changes:** If your family size decreases and the apartment is too large for your household size.<sup>24</sup>
- **Serious conditions:** There are conditions in your apartment that pose a serious threat to your family's safety.<sup>25</sup>
- **Demolition, revitalization, or rehabilitation:** Where your development is facing demolition or revitalization.<sup>26</sup>
- **Special features of unit not needed:** You are in an apartment which is specially adapted to accommodate a person with a disability (for example, it's wheelchair accessible, or adapted for a person with a vision or hearing disability), you do not need those features, and another tenant or applicant needs an apartment with those features.<sup>27</sup>
- **Administrative reasons:** In state public housing, your housing authority can make administrative transfers at any time for a *sound administrative reason*.<sup>28</sup>
- **Good cause:** Your lease may specify reasons why a housing authority can transfer you. Or the state or federal housing agency may approve certain reasons why the housing authority can transfer you.<sup>29</sup>

### State public housing

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If you live in state public housing and your family size has decreased, you do not have to transfer to a smaller apartment if you are already in a two-bedroom apartment or less, and are a:

- Veteran,
- Widow or widower of a Veteran, or
- A Gold Star Mother.

To qualify for this special protection, you must have lived in your apartment for at least eight consecutive years and you cannot be more than three months behind in your rent.<sup>30</sup>

### **Federal public housing**

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In federal public housing, a housing authority has the option to decide (*discretion*) whether or not to permit you to stay in your current apartment, even if it is the wrong size for your family.<sup>31</sup>

## **8. If I am overhoused and have to transfer, how many apartments does a housing authority have to offer me?**

### **State public housing**

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If you live in state public housing and the housing authority has determined that you are *overhoused* (your apartment is too large for the size of your household), the housing authority only has to offer you one apartment that is an appropriate size for your household. Read your lease to see what your housing authority's transfer policy is. You can also ask your housing authority for a written copy of its transfer policy.

Under the state's model lease, tenants have 30 days to transfer, sign a new lease, and move to that unit.<sup>32</sup> Your housing authority may also allow you to choose which development you would like to transfer to if you live in a community with more than one development; however, this is not required, and depends on the housing authority's policy.

If you refuse to transfer to an available unit within the time period stated in your lease, you will not be given another transfer offer and your rent will be changed to 150% of your current rent.<sup>33</sup> For example, if your rent is \$200, it will go up to \$300.

**Important:** Under old regulations, tenants used to be given three transfer offers. These regulations no longer exist and that three-offer system has been gone for a long time.

If you feel that the apartment offered is not the appropriate size—for example, because you have a disability and need a larger apartment to house a live-in aide—you have a right to file a grievance and ask for a *reasonable accommodation*. Some housing authorities' policies also allow you to reject

a transfer offer for documented *good cause*. If you feel that you have other *good cause* to reject the offer—for example, you are a victim of domestic violence and the apartment offered is in a location close to your abuser—you may file a grievance.

### **Federal public housing**

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If you live in federal public housing, your transfer policy must state the number of transfer offers you will be given. Read your lease to see what your housing authority's transfer policy is.<sup>34</sup> Many housing authorities are moving to a one-offer system. As noted above for state public housing, if the proposed transfer would not reasonably accommodate your disability, or if your housing authority transfer policy permits you to reject an offer for *good cause* and you have *good cause*,<sup>35</sup> you should tell the housing authority this and provide any proof that you can about the problems the transfer would cause. You can request a grievance hearing if the matter is not resolved.

## **9. Can I challenge the housing authority's request that I transfer?**

Yes. If you do not agree with your housing authority's reason for transferring your family, you have a right to request a grievance hearing. For more information about how to file a grievance, see **Using Your Public Housing Grievance Process: A Know Your Rights Guide for Public Housing Tenants in Massachusetts**, which is available at [www.MassLegalHelp.org](http://www.MassLegalHelp.org).

In both state and federal public housing, the housing authority must notify you in writing of any proposed transfer. It must also tell you the reason for the transfer and tell you that you have a right to request a grievance hearing if you disagree with the housing authority's decision to transfer you.<sup>36</sup>

So, for example, if the transfer is required because of your family size, ask the housing authority for an explanation stating the specific reasons for its decision. You have a right to know and to file a grievance if you do not agree with their decision.

# Transfer Process

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## 10. How do I request a transfer?

If you wish to transfer, ask your housing authority for a transfer application or transfer request form. You should also ask the housing authority for any information that it has in writing about its transfer process.

Your application must include all the required documentation and information. Once you have completed the form, be sure to make a copy of the form and any documentation for your own records, and then give the originals to the housing authority.

## 11. Do I have to qualify for a transfer?

### State public housing

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If you are requesting a transfer for *good cause*, the housing authority may require that you and your household:

- Are current in your rent and owe no back charges;
- Have not committed any serious violations of your lease for at least two years;
- Are not subject to a judgment or to an agreement for judgment in a prior eviction case.<sup>37</sup>

### Federal public housing

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If you are seeking a transfer and it is not an emergency transfer, your housing authority is allowed (but not required) to establish requirements. For example, some housing authorities require that residents who are transferring:

- Owe no back rent or other charges, or do not have a pattern of late payment;
- Have not engaged in criminal activity that threatens residents or staff;
- Have no housekeeping violations or history of damaging property;
- Can get utilities turned on in the name of the head of household.

The housing authority also has the ability to not apply (*wave*) these requirements and allow a transfer to happen.<sup>38</sup>

## 12. Do I have to accept the offer and move when the housing authority tells me to transfer?

### State public housing

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#### Good Cause Transfer

In state public housing, if you have requested a transfer for *good cause*, state regulations say that if the housing authority offers you a new unit, you have **seven days** to accept this offer. You may, however, ask for an extension of time. If you do not accept the offer within seven days (or the extended time allowed), you will be removed from the transfer list. You can grieve the removal from the transfer list, but you would need to show that you did not get proper notice or you had *good cause* to refuse the offer (for example, because the particular offer was not appropriate for your medical needs). Although you may submit a new transfer request, you will not be entitled to any priority for a period of three years (unless there are special circumstances).<sup>39</sup> But check your lease and housing authority's transfer policy—they may give you more than seven days.

#### Administrative Transfer

If you are transferring because of an *administrative* reason, generally you have **30 days** to accept a transfer offer and move. You will find information about how much time you have to accept an offer in your lease and the housing authority's transfer policy.

### Federal public housing

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There are no federal regulations that specify how much time you have to accept a transfer offer. Check your lease and your housing authority's Administrative and Continued Occupancy Policy.

## 13. If I am approved for a transfer, when will I be able to move?

If you have requested and been approved for a transfer, you will be placed on a waiting list for an apartment that includes people who are applying for public housing. How this waiting list is handled depends on whether you live in state or federal public housing.

In addition, some housing authorities may place you on a housing authority-wide waiting list where you may be assigned to either state or federal public housing. If you live in state public housing, be aware of two special rules in federal housing:



- Federal public housing rules require that all household members either be citizens or have certain types of *eligible immigration status*.<sup>40</sup> If this is not true for your family, you may not be eligible for federal housing, or you may have a much higher rent. Check on this before you transfer, and tell the housing authority that you have *good cause* not to accept an assignment to federal housing.
- Every adult in a federal public housing household must carry out either 96 hours per year of community service or economic self-sufficiency activity in order to remain eligible for public housing, or show that he or she is excused from having to do community service.<sup>41</sup>

In addition, if you're being transferred from state to federal public housing or from federal to state public housing, this may mean your rent may be calculated differently.<sup>42</sup>

### **State public housing**

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If you live in state public housing and have requested and been approved for a transfer, you will be placed on a waiting list that includes people who are applying for public housing. When apartments open up, the housing authority then selects people from this combined waiting list based on whether they fit any of the seven *priorities* listed in state regulations.<sup>43</sup>

These seven priorities are the emergency priorities that allow people to move ahead of other applicants on the regular waiting lists. For example, people who are homeless because of a natural disaster or fire have first priority. If you have requested a transfer for *good cause*, that is considered a sixth priority.<sup>44</sup> To find out what your housing authority's *priorities* are and where you are on the waiting list, ask your housing authority. If there is a long waiting list, you may need to check in regularly.

### **Federal public housing**

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If you live in federal public housing, there are no regulations about how different types of transfers are prioritized or when a transfer request takes precedence over that of a person who is applying for housing and on the waiting list. Check your lease and your housing authority's transfer policy. You can also ask to see the housing authority's Admissions and Continued Occupancy Policy.

Although there are no regulations requiring housing authorities to have a certain order or priority system for transfers, the following list is an example of how transfers could be prioritized.<sup>45</sup>

1. Emergency transfer;
2. Reasonable accommodation transfer;
3. Demolition, revitalization, rehabilitation transfer;
4. Family size changes transfer.

Under some housing authorities' policies, emergency, reasonable accommodation, and rehabilitation transfers take priority over those for people who have applied for a new apartment and are on the waiting list; and family size transfers are mixed in with the assignment of units to new applicants. Information about the process for taking people on the transfer waiting list and the waiting list for new apartments should be in your housing authority's Administrative and Continued Occupancy Plan.

## 14. Who pays for the cost of transferring?

### **State public housing**

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Where the transfer is required for rehabilitation, demolition, or revitalization, or because the existing unit is not fit for human habitation, the state's relocation assistance law applies. This means that the housing authority must either:

1. Move you or pay your mover directly;
2. Reimburse you for reasonable moving costs; or
3. Pay a fixed allowance to you and allow you to make your own arrangements for a move.<sup>46</sup>

In all other cases, unless the housing authority's policy says otherwise, you must pay for moving costs.

### **Federal public housing**

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If you live in federal public housing, the housing authority must pay for reasonable costs for the following types of transfers:<sup>47</sup>

- Transfers the housing authority initiates for demolition, disposition, revitalization, or rehabilitation;
- Transfers required because of emergency conditions, building systems failures, or other obligations under the lease that the housing authority is not meeting;
- Reasonable accommodations transfers.

Reasonable costs include the cost of packing, moving, unloading, and disconnecting and reconnecting services you pay for, such as telephone and cable television.

Generally, residents bear the cost of transfers related to family size. But you should check your housing authority's transfer policy because some housing authorities pay for moving residents to smaller units.

## **15. If my request for a transfer is denied, what can I do?**

You have a right to challenge the denial of a transfer request through your housing authority's grievance procedure. For more information about how to file a grievance, see **Using Your Public Housing Grievance Process: A Know Your Rights Guide for Public Housing Tenants in Massachusetts**, which is available at [www.MassLegalHelp.org](http://www.MassLegalHelp.org).

## Endnotes

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<sup>1</sup> If the housing authority has federal public housing, the transfer policy will also be in the Admissions and Continued Occupancy Policy. You can ask the housing authority for a copy of this.

<sup>2</sup> 760 C.M.R. § 5.03, see definition of “Transfer for administrative reasons” and “Transfer for good cause.”

<sup>3</sup> 760 C.M.R. § 5.03, see definition of “Transfer for administrative reasons.”

<sup>4</sup> 760 C.M.R. § 5.03, see definition of “Transfer for good cause.”

<sup>5</sup> See *Public Housing Occupancy Guidebook*, 11.1 and 11.4 (June 2003).

<sup>6</sup> According to the *Public Housing Occupancy Guidebook*, 11.1 (June 2003), any condition that would produce an emergency work order would qualify a resident for an emergency transfer if the housing authority were unable to make repairs in less than 24 hours. 24 C.F.R. § 966.4(h)(4), 901.25(a).

<sup>7</sup> *Public Housing Occupancy Guidebook*, 11.1 (June 2003).

<sup>8</sup> 24 C.F.R. § 966.4(c)(4).

<sup>9</sup> See 42 U.S.C. § 1437p(a)(4)(A)(iii).

<sup>10</sup> *Public Housing Occupancy Guide*, 11.1 and 11.5 (June 2003). According to the *Guide*, if a housing authority opts to have a split family transfer, the Administrative and Continued Occupancy Policy would include by way of example the following requirements: 1) both the original head of household and the new head of household must be listed on the most recent lease and recertification, 2) the family must be overcrowded according to the housing authority’s occupancy standards, 3) both heads must be legally capable of executing a lease, and 4) the reason for the family split must be the addition of children through birth, adoption, or court-awarded custody.

<sup>11</sup> The federal Fair Housing Act requires "reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B). See 24 C.F.R. § 100.204. The concept of *reasonable accommodation* was drawn from § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (see 53 Fed. Reg. 45003, November 7, 1988), which prohibits discrimination against disabled people in federally assisted housing. See also 24 C.F.R. Part 8.

State law, at G.L. c. 151B, § 4(7A), also includes the failure to make reasonable accommodation as an act of illegal discrimination. This means, as under the federal law, that a person with a disability has a right to expect her landlord to reasonably adjust rules or policies when necessary to allow her to live comfortably in her home.

While federal law (42 U.S.C. § 3604(f)(3) and 24 C.F.R. § 100.203) and state law require owners to allow disabled tenants to make reasonable modifications to their units at their own expense (which might include widening a doorway, installing a grab bar, putting in a louder doorbell, or lowering the light switches), the state law goes further for publicly assisted dwellings, requiring public housing authorities to pay for reasonable accommodation, subject to appropriation.

Note: reasonable accommodations do not include ramping for more than five steps or installing a wheelchair lift. G.L. c. 151B, § 4(7A)(1) and (7A)(3). Under § 504, however, the only limit on provision of reasonable accommodations including structural modifications is "undue hardship." Thus, § 504, if available, may be the better route for structural modifications. As long as a housing authority administers some federal public housing or rental assistance, it should be subject to § 504 for all of its programs.

<sup>12</sup> 760 C.M.R. § 5.03, see "Transfer for good cause."

<sup>13</sup> *Public Housing Occupancy Guidebook*, Chapter 11, footnote 39, p. 149 (June 2003).

<sup>14</sup> 760 C.M.R. § 5.03, see definition of "Transfer for administrative reasons."

<sup>15</sup> 760 C.M.R. § 6.06(4)(q).

<sup>16</sup> 760 C.M.R. § 6.06(4)(r).

<sup>17</sup> G.L. c. 209A.

<sup>18</sup> G.L. c. 121B, § 32B et seq.

<sup>19</sup> *Public Housing Occupancy Guidebook*, 11.1 (June 2003).

<sup>20</sup> *Public Housing Occupancy Guidebook*, 19.4 (June 2003).

<sup>21</sup> 760 C.M.R. § 5.03, see definition of "Appropriate Unit Size."

<sup>22</sup> *Public Housing Occupancy Guidebook*, 5.0 (June 2003).

<sup>23</sup> *Public Housing Occupancy Guidebook*, 5.4 (June 2003), which includes a long list of principles.

<sup>24</sup> See 24 C.F.R. § 966.4(c)(3); 760 C.M.R. § 6.06(5)(b).

<sup>25</sup> See 24 C.F.R. § 966.4(h)(3); 760 C.M.R. § 5.03, definition of "Transfer for administrative reasons." See also G.L. c. 79A, § 13 (relocation assistance when unit is condemned as unfit for human habitation).

<sup>26</sup> See 42 U.S.C. § 1437p(a)(4)(A); 24 C.F.R. § 941.207; 760 C.M.R. § 6.06(5)(b). See also G.L. c. 79A and 760 C.M.R. 27.00.

<sup>27</sup> See 24 C.F.R. §§ 8.27(b) and 960.407(b). Such an obligation should be included in the lease.

<sup>28</sup> 760 C.M.R. § 5.03, see definition for "Transfer for administrative reasons."

<sup>29</sup> 760 C.M.R. § 6.06(5)(b).

<sup>30</sup> G.L. c. 121B, § 32, 9<sup>th</sup> paragraph.

<sup>31</sup> *Public Housing Occupancy Guidebook*, 11.6 (June 2003).

<sup>32</sup> To get a copy of the state Department of Housing and Community Development's model lease, go to: [www.state.ma.us/dhcd/components/public/lease.pdf](http://www.state.ma.us/dhcd/components/public/lease.pdf).

<sup>33</sup> G.L. c. 121B, § 32, 2<sup>nd</sup> paragraph, as amended July 1, 2003.

<sup>34</sup> For a copy of a sample federal lease, go to:  
[www.hud.gov/offices/pih/programs/ph/rhiip/phgb\\_app4\\_7new.pdf](http://www.hud.gov/offices/pih/programs/ph/rhiip/phgb_app4_7new.pdf).

<sup>35</sup> *Public Housing Occupancy Guidebook*, 11.4 (June 2003).

<sup>36</sup> 760 C.M.R. § 5.10(5). *Public Housing Occupancy Guidebook*, 11.4 (June 2003). 24 C.F.R. § 966.4(c)(4).

<sup>37</sup> 760 C.M.R. § 5.03, see definition of “Transfer for good cause.”

<sup>38</sup> *Public Housing Occupancy Guidebook*, 11.6 (June 2003).

<sup>39</sup> 760 C.M.R. § 5.10(5)(a).

<sup>40</sup> See 42 U.S.C. § 1436a; 24 C.F.R. Part 5, Subpart E. Persons who have legal permanent resident status or who have been approved for refugee or asylee status have *eligible immigration status* under HUD rules. However, persons who are awaiting legal permanent resident status but have not yet been approved (those waiting for *green cards*) don’t have *eligible immigration status*.

<sup>41</sup> See 42 U.S.C. § 1437j(c); 24 C.F.R. Part 960, Subpart F.

<sup>42</sup> A resident in federal public housing, for example, gets the benefit of the “earned income disregard” for certain increases in earned income after prolonged unemployment or being on public assistance; the state public housing exclusion is far more limited. Tenants in state public housing can deduct extraordinary medical expenses; tenants in federal public housing ordinarily can do this only if the head of household or spouse is elderly or disabled. If you’ve been forced to transfer due to building or apartment rehabilitation work, and your rent or utility costs increase because of different rent rules, the housing authority should reimburse you for the difference between what you would have paid if you weren’t forced to move and what you have to pay now. See 24 C.F.R. § 941.207(b); G.L. c. 79A, § 7; 760 C.M.R. § 27.06.

<sup>43</sup> 760 C.M.R. § 5.09(1).

<sup>44</sup> 760 C.M.R. § 5.09(1)(f).

<sup>45</sup> See *Public Housing Occupancy Guidebook*, 11.2 and 11.3, which have examples of how transfers could be prioritized and what transfers might take precedence over waiting list admissions.

<sup>46</sup> See G.L. c. 79A, §§ 7 and 13; 760 C.M.R. § 27.06; *West Broadway Task Force v. Boston Housing Authority*, 414 Mass. 394, 608 N.E.2d 713 (1993) (obligation to provide relocation payments triggered when housing authority notifies tenants that they must move due to rehabilitation).

<sup>47</sup> *Public Housing Occupancy Guidebook*, 11.7 (June 2003). Payment of relocation costs associated with rehabilitation or moving from an uninhabitable apartment are also required by the state Relocation Assistance Act, even if they would not be required by federal law. See G.L. c. 79A, §§ 5, 7, and 13. While HUD states that a temporary transfer to other federal public housing during rehabilitation does not trigger the federal Uniform Relocation Act (see 42 U.S.C. § 4601, as well as 24 C.F.R. Part 42, Subpart A and 49 C.F.R. Part 24), it still requires reimbursement of reasonable out-of-pocket expenses associated with the temporary relocation, including moving costs, any increase in monthly rent/utility costs, and incidental expenses. See 24 C.F.R. § 941.207(b).