



Number: H-20-04

Date: July 1, 2020

Subject: Internal Reviews Conducted by Housing Providers

This Directive is to be implemented by Housing Providers listed under the following programs in Schedule 1 of Ontario Regulation 367/11:

- 1 (a) – Local Housing Corporation
 - 2 (a) and 2 (b) – Rent Supplement Programs
 - 6 (a) – Non-Profit Program
 - 6 (b) – Non-Profit Co-Op Program
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Directives Archived and Replaced with This Directive

Directive H-13-12, Internal Reviews Conducted by Housing Providers

Directive H-16-01, Internal Reviews Conducted by Housing Providers

Background:

The Housing Services Act, 2011, sections 155 – 159, prescribes that the Service Manager decisions are reviewable and require Service Managers to have a system under which households can request reviews as listed in the four points below. The system must include:

- written notification of the original decision provided to the household in accordance with O. Reg. 367/11, section 61; and
- procedural rules set out in O. Reg. 367/11, section 138; and
- rules for notification of the reviewer decision; and
- the effective date of the decision as set out in O. Reg. 316/19, sections 10 and 11 and O. Reg 367/11, section 139

Under the previous Social Housing Reform Act, 2000, there was a requirement to provide the household with an Opportunity to Comment prior to the Housing Provider making a decision. The HSA and its regulations are silent on this requirement. In consultation with local Housing Providers, the Service Manager determined that the Opportunity to Comment shall be removed from the internal review process.

Action to be Taken:

Housing Providers shall follow the internal review process set out in twelve points listed in this Directive.

1. The following Housing Provider decisions are reviewable based on the four points below:
 - Size and type of unit that household is eligible for
 - Amount of rent payable by the household
 - Household is no longer eligible for rent-geared-to-income assistance
 - Household ineligible for rent-geared-to-income assistance (new household members joining a unit).
2. Once the Housing Provider makes a decision which is reviewable, a written notice of the decision must be provided to the household within seven business days. The notice must state all four points listed below:
 - the effective date of the decision;
 - the reasons for the decision;
 - the process to request a review; and
 - the timeline of a minimum of 30 business days to request the internal review.

The notice must include a copy of the Request for Internal Review of a Decision form.
3. If the decision is that the household is no longer eligible for rent-geared-to-income assistance and subsidy is revoked, the Housing Provider must give the household, a minimum of ninety days' notice that the rent will increase to market rent effective the first day of the month following the ninety days.
4. If the household requests an internal review, the Housing Provider shall conduct the review and make a decision within ten business days of the request and must ensure that the individual(s) conducting the review follow all four points listed below:
 - has not discussed the decision with the decision maker;
 - has not participated in the original decision;
 - is knowledgeable about the relevant provisions of the Act and regulations; and
 - shall not discuss the decision with the decision maker except during the course of the review.
5. If a Housing Provider does not have sufficient staff to meet this requirement, they shall contact another Housing Provider to request that they conduct the review.
6. Within five business days of conducting the review, the reviewer shall provide written notice of its decision, the effective date of the decision and the reasons for the decision to the two points below:
 - the household that requested the review, and
 - the person who made the original decision.

7. If the internal review relates to the amount of rent payable by the household, the effective date of the decision shall be the date of the original decision unless the review results in an increase in the amount of rent payable set out in the original decision. Then the effective date of the increased rent payable is the first day of the second month following the review decision.
8. For all other internal reviews, the effective date of the decision is the later of the dates specified by the reviewer or the day the reviewer made its decision.
9. If the household did not request a review of a decision to deem the household ineligible for rent-geared-to-income assistance and subsidy has been revoked, the household must provide a written request for an extension of time to request an internal review of the decision. If the Housing Provider determines there are extenuating circumstances that prevented the household from requesting an internal review and providing the necessary documentation or information within the required timelines, the Housing Provider may approve the request for the extension of time and shall conduct an internal review.
10. Upon completion of the internal review, if the decision is made that the household is eligible for rent-geared-to-income assistance, the Housing Provider shall reinstate subsidy effective the first day of the month in which the decision is made. If the market rent was charged and payable for more than one month, the household shall be responsible to pay the market rent and Housing Providers should allow households to enter into a repayment agreement.
11. The Housing Provider shall retroactively reinstate subsidy to the day it was revoked, even if market rent was payable for more than one month, if it is determined that extenuating circumstances prevented the household from requesting an internal review and providing the necessary documentation or information within the required timelines, when eligibility of the household is proven.
12. A decision made by the reviewer is final once it is made.

Reference:

As listed in the ten points below:

- Housing Services Act, 2011, section 155 – System for dealing with reviews
- Housing Services Act, 2011, section 156 - Reviews requested by households
- Housing Services Act, 2011, section 158 - Rules for reviews
- Housing Services Act, 2011, section 159 - Effective date of decision
- O. Reg 367/11, section 61 – Notice of certain decisions, requirements, s. 53(1) of the Act
- O. Reg. 367/11, section 138 - System for dealing with reviews, requirements, s. 155 (4) of the Act
- O. Reg. 367/11, section 139 - Effective date of decisions, s. 159 of the Act
- O. Reg 316/19, section 2 – Geared-to-income rent payable
- O. Reg. 316/19, Section 10 – Annual review of geared-to-income rent payable
- O. Reg. 316/19, Section 11 – In-year review of geared-to-income rent payable

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