

Community Housing Directive

MIS 2016-01 Provider Participation in Provincial Arrears Database

Date of Directive: May 16, 2016
Replaces Directive: New
Effective Date: Immediate
 Until further notice
 To be updated annually
Legislation: Housing Services Act, (HSA) 2011 s.42
Regulation: Ontario Regulation 367/11 s.26
Applies to: HSA Providers (including Special Needs Providers)
 Non-HSA Providers
 HAP and Managers of other Community Housing Wait Lists

Intent

The Provincial Arrears Database was created to allow wait list providers across the province to track money owed by former tenants and members to Community Housing Providers. The intention of the database is to provide information across providers, to reduce the level of bad debt of Housing Providers, as well as reduce any level of overpayments from Service Managers.

This rule sets out:

- **When** a tenant/member should be added to the Provincial Arrears Database
- **How** to report former tenant/member arrears to Housing Access Peterborough (HAP)
- **When** providers are expected to contact HAP to obtain information on former tenant/member arrears.

Legislative Context

Ontario Regulation 367/11, Section 26 states that if a former tenant/member owes arrears to a Community Housing Provider, they are ineligible to be added to the Centralized Wait List for Rent-Geared-to-Income (RGI) assistance.

Arrears include money owed to a Community Housing Provider because of:

- unpaid rent/housing charges
- overpaid subsidy, or
- damage caused by a member of the household.

This means that a former tenant/member who owes arrears may be added to the Centralized Wait List for RGI assistance if they enter into a repayment agreement. If a former tenant/member fails to make payments toward the repayment agreement, they may become ineligible to be added to the Centralized Wait List for RGI assistance. **Each Housing Provider must establish their own policy to determine when a tenant is in good standing in their repayment agreement.**

Policy

Maintenance of Provincial Arrears Database

HAP, on behalf of the Service Manager, maintains the Provincial Arrears Database, including entries, changes and queries. To ensure that eligibility for RGI assistance is assessed correctly, Housing Providers must provide, and update HAP with accurate information, including:

- Names of household members who have arrears
- Date of birth and social insurance number for names provided
- Amount owed
- Date household moved out
- If tenants 16 years or older have signed an agreement, ensure that their name is included in the outstanding arrears

No minimum arrears amount

A former tenant/member will not be deemed eligible if there are arrears with a former Housing Provider (even the smallest amount disqualifies the application). This means that the former tenant/member must pay all arrears first or (attempt to) enter into a repayment agreement with the former Housing Provider.

No time limit

A time limit is not currently in place for the Arrears Database. This means that arrears can be pursued, and arrears recorded in the Arrears Database can cause a tenant/member to be ineligible for RGI assistance, no matter how long ago they were incurred or recorded. A time limit may be considered in future, at the Service Manager's discretion.

Exemptions

Arrears information is invalid under the following circumstances:

- Upon the death of a former tenant/member **and** after attempts to collect the receivable from the estate have proven unsuccessful.
- Unsuccessful small claims action.
- Bankruptcy if the receivable has been claimed and discharged through the bankruptcy and the former tenant/member provides a copy of the discharge documents.

Special Priority – one-half rule

If a former tenant/member who owes arrears has applied under Special Priority, the amount of arrears owed is deemed to be one-half of the actual amount **if** the arrears are with respect to a unit where the former tenant/member and the abusing individual were joint tenants. The amount of arrears owed will be considered one half of the total amount owed once the request for Special Priority status has been approved and assigned.

Current arrears are excluded

If a tenant/member owes arrears to their current Housing Provider, they are still eligible to be added to the Centralized Wait List to transfer to another unit. However, a unit will not be offered to a tenant/member who owes arrears to their current Housing Provider, unless they have entered into, or are attempting to enter into a repayment agreement.

Repayment agreements and extenuating circumstances

Providers have the discretion to determine whether or not to enter into a repayment agreement with a former tenant/member, and what the terms of a repayment agreement will be.

However, HAP has the discretion to consider extenuating circumstances on this issue (O. Reg. 367/11, s. 26).

HAP may use its discretion if the following conditions exist:

- The terms of the proposed agreement are deemed unreasonable by HAP (this will be determined on a case by case basis), **or**
- The Housing Provider does not wish to enter into a repayment agreement, **and**
- The former tenant/member does not owe arrears with any other Community Housing Provider.

Market Rent Arrears

The regulations do not exclude Community Housing market rent arrears and related monies owed. These amounts may be included in the local and Provincial Arrears Database.

Misrepresentation

In certain cases, a Housing Provider may wish to pursue a conviction of misrepresentation. If the Landlord and Tenant Board issues an order that the former tenant/member has misrepresented their income, the household is ineligible to be on the Centralized Wait List for two years from the day misrepresentation occurred as indicated by the order. It is important that the term “misrepresentation” is only used if there is an order from the Landlord and Tenant Board.

Implementation

Notify HAP at Move-out

As soon as possible when, or after a household moves out owing arrears (including overpaid subsidies and damage related costs).

Housing Providers will:

1. Notify HAP using the most current form.
2. Attach any supporting documentation to verify the amount
 - If the total amount is not yet known, providers should fill out the form with a nominal one dollar (\$1.00) amount. They can follow up with an updated form when the total amount is known.

Provider Participation in Provincial Arrears Database

3. If the amount of the arrears changes (i.e. if there are additional charges due to damages or additional rent/housing charges owing) Housing Providers will re-submit the form to update the Provincial Arrears Database.

Inclusion in the province-wide arrears database and verification of arrears

1. HAP will enter the former tenant/member arrears information into the Provincial Arrears Database, based on the information supplied by the Housing Provider. Information is uploaded to the database monthly.
2. At the time of application for RGI housing, former tenant/member information is checked against the Provincial Arrears Database. If it is discovered that arrears are owed, HAP will inform the applicant that they are ineligible for inclusion on the Centralized Wait List until they submit proof of entering into a repayment agreement with the Housing Provider owed. If proof is not submitted, the application will subsequently be cancelled.
3. It is advisable for a Housing Provider to contact HAP before an offer of accommodation is made to confirm that there are no arrears owed. If it is discovered that arrears are owed, the Housing Provider should not make an offer of accommodation without confirming with HAP that a repayment agreement is in place and in good standing.
4. Housing Providers will ensure that tenants/members – even those without arrears – get regular notifications about the Arrears Database. Housing Providers may choose to include this notification with other communications with tenants/members, including through income verification, notices of rent arrears, etc.

Entering into and monitoring Repayment Agreements

1. Housing Providers will inform HAP when they enter into a repayment agreement with a former tenant/member.
 - a. If the former tenant/member enters into a repayment agreement at the time of move out, the Housing Provider will provide a copy of the agreement and proof of first payment to HAP. The former tenant/member will continue to be added to the Provincial Arrears Database, however it will be indicated that an arrears agreement exists.
 - b. If a former tenant/member enters into a repayment agreement at the time of application, or as a result of a letter from HAP, the Housing Provider will forward a copy of the agreement and proof of first payment to HAP. The former tenant/member will continue to be added to the Provincial Arrears Database; however it will be indicated that an arrears agreement exists.
2. Housing Providers will inform HAP if a former tenant/member fails to comply with a repayment agreement (usually when two or more payments are missed).

- a. If the former tenant/member is on the Centralized Wait List for Rent-Geared-to-Income housing (RGI), HAP will notify them that they are ineligible for inclusion on the Centralized Wait List until they submit proof of entering into a repayment agreement with the Housing Provider owed. If proof is not submitted, the application will subsequently be cancelled.
- b. If the former tenant/member is a current tenant/member with another Housing Provider, HAP will notify the current provider that an arrears agreement has been defaulted on and request that they send the former tenant/member a letter indicating that their subsidy is at risk unless they make arrangements with the former provider to maintain the repayment agreement. If the former tenant/member does not follow through, the current Housing Provider is able to increase their rent to market rent, following the required notice period.

Templates of current letters and forms may be found in the Peterborough City and County Community Housing Guide.

When a tenant/member ceases to owe arrears

Housing Providers must contact HAP when a household ceases to owe arrears, whether through complete re-payment, waiving of debt, or other agreement. HAP will then update the Provincial Arrears Database.

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From time to time, the Service Manager issues directives to communicate policy directions and updates to Community Housing Providers in its jurisdiction.