



## Emergency Rental Assistance Webinar Q&A

*(On April 22, 2020, MHP organized a webinar that attracted 500 participants and many questions. In response, we put together this Q&A to help communities create successful emergency rental assistance programs).*

### Help for Establishing an Emergency Rental Assistance Program

**Guidance** <https://www.mhp.net/writable/resources/documents/Emergency-Rental-Assistance-Programs-guidance1.pdf>

**Checklist** <https://www.mhp.net/writable/resources/documents/Emergency-Rental-Assistance-Programs-checklist.pdf>

### Resources for Emergency Rental Assistance

#### Residential Assistance for Families in Transition (RAFT)

<https://www.mass.gov/service-details/learn-about-residential-assistance-for-families-in-transition-raft>

DHCD has waived the rule from the program guidance that households may not apply for subsidized rent arrears twice in a 24-month period, but households are still limited to a maximum \$4,000 benefit over 12 months. A notice to quit is not necessary with upstream RAFT or COVID RAFT.

**1. Can RAFT cover condo fees?**

Yes, RAFT can pay for condo fees, as well as rental assistance, utilities and mortgage assistance.

**2. Is mortgage assistance through RAFT only for deed restricted units?**

No, RAFT can cover mortgage assistance for market rate and deed restricted homes, as long as the applicant is income qualified.

**3. What are the biggest gaps that RAFT does not cover?**

The largest gap may be that RAFT only supports households earning up to 50 percent of the area median income (AMI).

**4. Is the RAFT application online?**

Yes, RAFT intake is available online. Search regional program administrators here:

<https://www.masshousinginfo.org/>

**5. If someone is receiving RAFT for utilities, for example, can they also qualify for local emergency rental assistance?**

Eligibility for emergency rental assistance can be a local decision so it could be possible for an applicant receiving utility assistance to also access rental assistance from a local program.

#### Affordable Housing Trust Fund

**1. Do affordable housing trusts offer an advantage over Community Preservation Committees?**

The Municipal Affordable Housing Trust fund statute allows trustees to make funding decisions outside of the legislative body. So the housing trust can generally make decisions more nimbly than the local Community Preservation Committee (CPC). For those communities that have already transferred CPA funds to the housing trust, an emergency rental assistance program could be started by the trust with those funds, assuming the legislative body did not set restrictions that would limit that use.

## **Community Preservation Act (CPA)**

<https://www.communitypreservation.org/>

CPA funds can support households earning below 100% of the area median income (AMI) and can be spent in any community in the state. Rental assistance is allowed in the CPA statute under the definition of “support” in Section 2 of the Act.

### **1. What is the best way to access CPA funds for emergency rental assistance?**

Best practice is for the organization seeking to administer a rental assistance program to submit an application for funds to the local Community Preservation Committee (CPC). The CPC would review the application and make a funding recommendation to the legislative body. Before an allocation can be made, the legislative body would need to pass the recommendation with a majority vote.

An application for funding could also come from a municipal body, such as a housing department. Additionally, the CPC could make a recommendation to the legislative body to allocate funds for rental assistance before arrangements have been made with a potential program administrator. This could be helpful in a town where the legislative body meets just once or twice a year.

### **2. Can utility expenses, fuel assistance, property tax relief or other types of aid be paid with CPA resources?**

No, CPA cannot pay for utility expenses or other types of aid. CPA is a housing program, household expenses and social services are not eligible uses.

### **3. Can CPA funds support shelters?**

No, CPA is intended to support permanent housing units.

### **4. Are students and undocumented immigrants allowed to access CPA funds?**

There is nothing in the CPA statute that would restrict students or undocumented immigrants from accessing CPA funds.

### **5. What about assistance for owners of single family home or condos? Can mortgage payments be paid with CPA funds?**

If a home or condo is deed restricted to households earning up to 100% AMI, it can qualify as “community housing” under the CPA statute and mortgage assistance may be an allowable expense. Homes that are not deed restricted (market rate homes) are not eligible for CPA funds, and use of CPA funds is problematic even if a market rate home is occupied by income eligible owners. Unlike rental assistance, mortgage assistance is not specifically mentioned in the CPA legislation, so communities should consult municipal counsel before moving forward.

### **6. Can CPA funds be used to assist with condo fees?**

No. Condo fees are considered accessory expenses, similar to utility expenses.

### **7. If we have CPA, but not an affordable housing trust, can we still use funds for emergency rental assistance and how do we do that?**

It is not necessary to have a housing trust in your community to provide rental assistance resources. While appropriating funds first to a housing trust can provide communities with additional flexibility, the majority of CPA funds are appropriated directly to housing projects by the city or town’s legislative body (city council or town meeting), after a recommendation by the

local CPC. If you do have a housing trust, funds can be appropriated directly to rental assistance without first going to the CPC.

**8. Can administrative fees of an emergency rental assistance program be paid with CPA funds?**

Yes, in certain circumstances. If CPA funds are supporting emergency rental assistance administration by a non-municipal entity, CPA can also cover administrative fees to implement the program. However, if your municipal staff is working on a rental assistance program, CPA funds may not be used to pay for the time of existing employees of cities or towns.

**9. Could a municipality provide funds for rental assistance before the municipality's CPC and legislative body have approved the program, and then have CPA reimburse the town after the proper approvals?**

No, CPA cannot reimburse a municipal budget for any expenses incurred in the past. This is a violation of the "no supplanting" rule in the CPA legislation.

**10. Can we protect against future evictions when using CPA for rental assistance?**

Some housing programs include protection from eviction for tenants for a period of time after assistance has been provided. This gives the tenant some security and the community an added public benefit. If a community wants to include eviction protection in its program, it should be reasonable and outlined in the contract signed by the administrator, tenant and landlord.

### **Community Development Block Grant (CDBG)**

**1. Can CDBG funds be allocated to a non-profit for emergency rental assistance?**

Yes, several communities are both using CDBG funds to support emergency rental assistance and collaborating with a non-profit to administer the funds.

### **Determining Program Parameters and Eligibility**

**1. Should programs target renters who are not eligible for unemployment and other benefits?**

Program eligibility can be a local decision, but best practice is to consider gaps in our service delivery system and prioritize support to those who may be left out of other programs.

**2. Can programs be limited to local residents only?**

For an emergency rental assistance program during a pandemic, attempting to stabilize renters and keep people safe in their homes, it is reasonable to focus on existing residents.

**3. Should a portion of our funds go to extremely low income households (e.g., up to 30% AMI)?**

Given the local data on housing needs in your community, it may make sense to allocate some of your resources to extremely low income households.

**4. Does the rental payment need to go directly to the landlord and who is issued a Form 1099?**

Yes, rental assistance payments should be made directly to the landlord who provides a Form W-9 to the program administrator. At the end of the tax year, the landlord then receives a Form 1099 from the program administrator.

**5. Is a lease required or would an agreement with the landlord be sufficient?**

When the Department of Revenue references rental assistance, specifically when using CPA funds, they advise a lease between the land lord and tenant. Given that many of our low income

residents do not have leases, it may be possible to substitute an agreement from the landlord for a lease. Consult with your Town Counsel or City Solicitor to make sure your program is satisfying the Anti-aid Amendment.

**6. Should income eligibility be determined based on a household's current income or last year's annual income?**

If your emergency rental assistance program is directly responding to the impact of COVID-19, income eligibility based on current income is advisable, with applicants showing a loss in income due to the pandemic.

**7. Should an emergency rental assistance program include an asset test given that those with few assets are likely the most in need?**

Asset tests can be time intensive and challenging in emergency situations. Requiring recent bank statements would likely disqualify most high wealth applicants.

**8. How should our emergency rental assistance program be publicized?**

Programs can be promoted on the community's webpage outlining resources and information pertaining to COVID-19. Local service providers can also help promote the resource, along with landlords. Your Chamber of Commerce or business groups can promote the program so that employers can help their staff access rental assistance. One community promoted their program through a school district email.

**9. What is a standard administrative fee to run a program?**

You should anticipate that an administration fee may be 10-20%, depending on the program structure and administrator's cost structure.

**10. Can an affordable housing landlord be awarded funds to run an emergency rental assistance program since they know the need?**

This model may be problematic because communities have residents in need living outside of affordable housing units. Local public resources should be broadly available. The program administrator must promote the program beyond their personal contacts and interest, to meet the needs across the community.

**11. How do towns run a lottery when demand is greater than supply?**

Running a lottery can be complicated, but a fair way to award public assistance. We encourage communities to either engage with an agency that has experience running lotteries to administer your program, or a certified lottery agent to manage that portion of your program.

## **Anti-aid Amendment to the Massachusetts Constitution**

**1. Does allocating funds to a non-profit get around the municipality making direct payments to an individual?**

Technically yes, but the Anti-aid Amendment applies when public funds are given to a non-publicly owned and controlled entity. These allocations must be serving a public good and in fact, be purchasing a service to benefit the municipality (DLS No. 2006-75). This applies to allocations made to non-profits, as well as individuals.

## Assistance for Homeowners

<https://www.mass.gov/lists/moratorium-on-evictions-and-foreclosures-forms-and-other-resources#information-re-foreclosure-moratorium->

Homeowners should be contacting their bank or servicer, asking for a mortgage deferment or forbearance. The recently signed state Eviction and Foreclosure Moratorium Bill requires mortgage servicers to offer up to six months forbearance. Additionally, the federal CARES Act requires mandatory forbearance on federally backed mortgages. Most homeowners will be covered by these two laws.

Additionally, rental assistance helps small scale landlords so your program publicity should try to include outreach to them.

## Other Resources and Miscellaneous Questions

### 1. Does the Eviction Moratorium bill require tenants to inform landlords about their inability to pay rent due to the impacts of COVID-19?

Yes, to avoid the risk of foreclosure after the protection is lifted, tenants are to notify their landlord in writing within 30 days of a missed payment. DHCD has released guidance for tenants pertaining to this new law. **NOTE: This law is not a rent forgiveness program.**

<https://www.mass.gov/doc/dhcd-guidance-and-form-instructions-for-tenants-eviction-moratorium/download>

### 2. Does an emergency rental assistance program need to be procured by a municipality?

While a community can call the Office of Inspector General (OIG) 30B hotline (617-722-8838) and research the OIG guidance on “grant agreements” in their bulletins, procurement decisions should be made in consultation with local procurement officers and municipal administration.

### 3. MAPC has done initial analysis of unemployment data in Massachusetts to help you consider the degree of need for rental assistance in your community.

<https://www.mapc.org/covid19-layoffs/>

### 4. Datatown tells you the industries that residents in your community work in.

[www.mhp.net/datatown](http://www.mhp.net/datatown)

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