Commonwealth of Massachusetts

Department of Housing and Community Development

State Rental Assistance Overview

November 3, 2021

Protected Classes in Massachusetts

- **Familial Status (Children)**
- Race
- Color
- National Origin
- Religion
- Sex
- Disability
- **Source of Income (Vouchers)**
- Sexual Orientation
- Gender Identity
- Marital Status
- Veteran/Military Status
- Genetic Information
- Age

Fair Housing Basics

- Fair housing aims to provide equal access
- A housing provider must treat applicants and tenants equally regardless of whether they belong to a protected class
  - For example, a housing provider cannot require a higher credit score for applicants with a housing voucher or require a minimum earned income
- Housing providers must be willing to accept applications from anyone
  - For example, a housing provider cannot refuse to accept an application from someone with a housing voucher or steer applicants to specific units or neighborhoods
- Important to check internal bias to ensure everyone is being treated fairly and equally
- Ignorance is not an excuse!

State Rental Assistance Programs

- **Massachusetts Rental Voucher Program (MRVP)**
  - Very similar to Section 8
- **Alternative Housing Voucher Program (AHVP)**
  - Very similar to Section 8, but limited to non-elderly persons with disabilities
- **Department of Mental Health Rental Subsidy Program (DMHRSP)**
  - Run in conjunction with the Department of Mental Health (DMH)

Tenant Screening

- Applicants with vouchers should not be subject to additional screening criteria
  - Note that households with vouchers are, by definition, low-income
  - Evaluate each applicant carefully and consider their ability to uphold the lease requirements
  - Housing agencies do not screen voucher holders to see if they would be good tenants
    - For example, housing agencies do look at someone's CORI as part of eligibility, but housing providers should not assume that anyone with a voucher has no CORI

- Ask the housing agency questions
  - Ask to read contract and required lease/lease addendum, which vary by program
  - Ask about steps in the leasing process and timelines

Next Steps with Prospective Tenants

- Housing provider can request first, last, and security from an applicant with a voucher – BUT
  - Voucher will pay portion of first month's rent after move-in and last month's rent at that time
  - If necessary, consider requesting only the tenant's portion of the rent for first and last
  - If necessary, consider collecting security deposit over a longer period of time, such as six months

- Submit required paperwork to the housing agency
  - Includes information on unit, proof of ownership, W-9 (for tax purposes), and probably direct deposit information

Setting Contract Rent

- A housing provider may request any rent, but all rents are subject to approval by the housing agency
  - A housing provider does NOT need to accept a lower rent offered by a housing agency—but cannot use rents as a means of discrimination
- All voucher programs will review requested rent to ensure it's reasonable based on other market rents in the building and/or the neighborhood
  - If requested rent is determined to be unreasonably high, the housing provider can submit additional comps and/or clarify amenities in the apartment
- Once approved and agreed to, the housing provider cannot change the rent (including an annual increase) without the housing agency's approval

Inspection

- **Every rental unit in Massachusetts must be in compliance with the State Sanitary Code and meet minimum requirements for human habitation.**

- State sanitary code inspection prior to occupancy
  - Provides verification that the unit is in compliance with existing state regulations
  - Housing provider must schedule with local Board of Health or Inspectional Services prior to occupancy
  - Nominal fee
  - As with a non-subsidized tenant, no further inspection is required unless the tenant reports violations

Massachusetts Lead Laws

- **The Massachusetts Lead Law requires the removal or covering of lead paint hazards in homes built before 1978 where any children under 6 live.**
- Housing providers must provide notice to tenants prior to occupancy – but this does not mean that a unit doesn't need to be de-leaded
- Housing providers can be held liable for lead poisoning even if the tenant signs a waiver or acknowledgement of presence of lead paint
- Housing providers cannot evict or refuse to rent to anyone because of lead paint or children under the age of 6
- Proper de-leading protects children and housing providers!
- https://www.mass.gov/the-massachusetts-lead-law

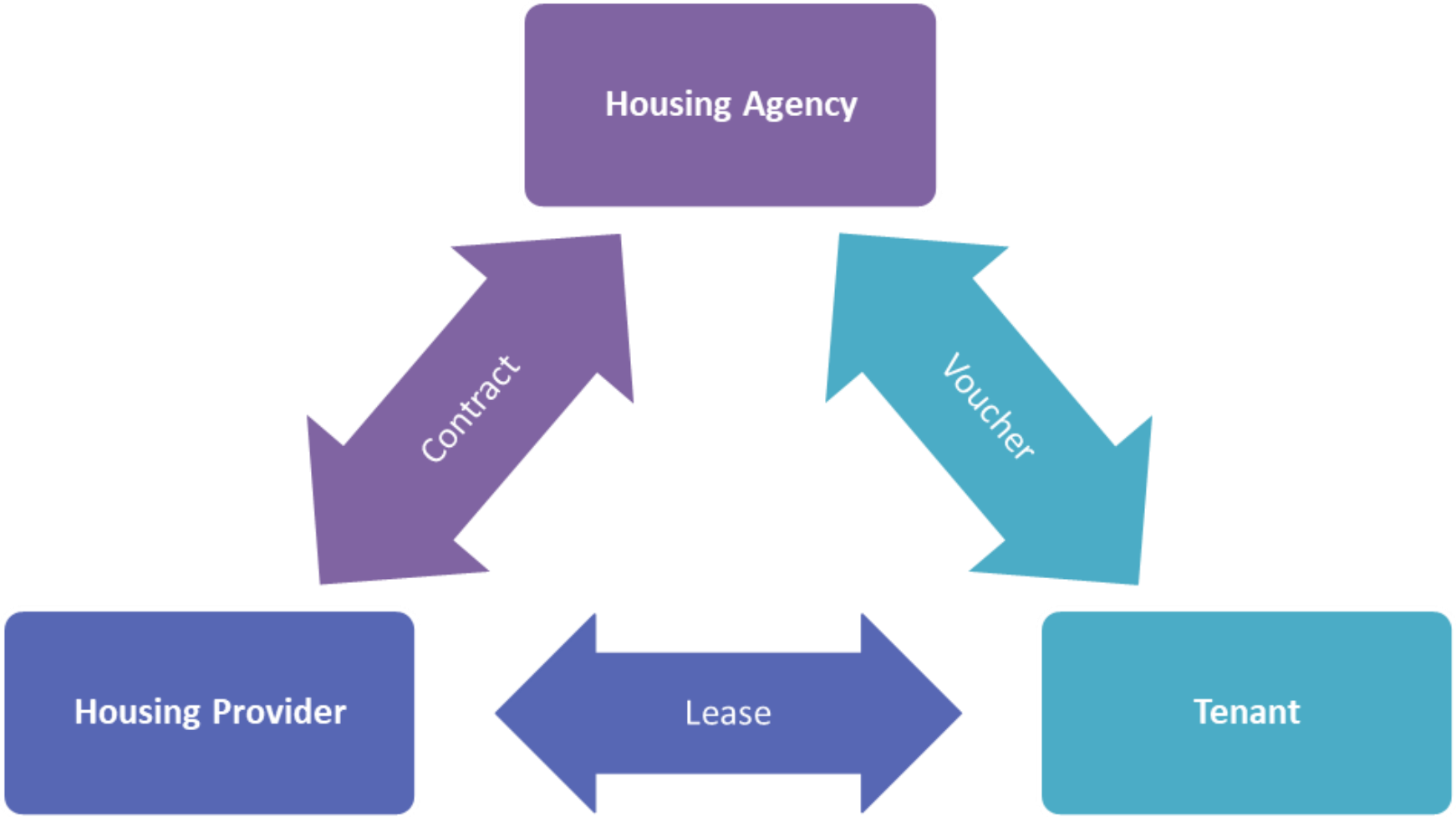
Lead Paint – Voucher Programs

- Housing agency will verify that the unit is lead safe if there are children under the age of 6 in the household
  - Verification of de-leading/letter of lead compliance if built before 1978 (even if the unit/property has undergone extensive renovations)
  - Building permit for units built after 1978

- Housing agencies will verify lead safety documents in the Lead Safe Homes database
  - Anyone can search the database to verify if a unit/home has been de-leaded or if there have been subsequent issues
  - https://eohhs.ehs.state.ma.us/leadsafehomes

Relationship Between Parties – No Voucher

Relationship Between Parties with Voucher



Relationship Between Parties

- This housing agency is NOT a party to the lease
  - Housing agency cannot enforce or terminate the lease
  - The housing provider should treat the tenant like any other tenant when it comes to lease violations, but keep the housing agency informed
- The tenant is not responsible for voucher payments and the housing agency is not responsible for the tenant portion
  - As long as the contract between the housing provider and housing agency is in place and the tenant is still a participant in the housing program
  - The most common reasons housing agencies may withhold payments or voucher payments may be low:
    - Waiting for signed contracts and/or the lease has been terminated
    - Inspection issues
    - Waiting for income verification to change the tenant's portion of the rent

Leases/Lease Addendums in Voucher Programs

- Additional language regarding the voucher
  - Clarifies that the tenant is responsible only for the tenant portion of the rent and the housing agency only responsible for the subsidy payment
  - Explains that only the housing agency can set the rent and tenant portion
- Outlines how the lease can be terminated by either party
  - Leases automatically renew unless terminated
  - Does not add any additional requirements for termination due to lease violations
- Largely silent on issues that concern most housing providers
  - For example, utilities, pets, altering the unit, smoking, etc.
- Includes some basic tenant protections, language on domestic violence, and anti-discrimination clause

Contract with Housing Agency

- Only the housing agency can set the rent and tenant portion of the rent
  - Remember: the housing provider doesn't need to accept a rent offered by a housing agency, but once they do, the rent is set
  - Housing providers may NOT charge the tenant any rent in excess of the tenant portion, unless it's for an amenity (like parking) and in the lease
- Outlines housing provider's obligations to receive subsidy payments:
  - Verification that the tenant is still in the unit, unit is in compliance with the state sanitary code, tenant has no ownership interest, etc.
  - Provide housing agency copies of any notices to tenant or of a sale
- Housing agency will make voucher payments in a timely manner
  - As long as the housing provider is in compliance with the contract and the tenant is a participant in the voucher program
- Notice that voucher payments are subject to appropriation

Positives of Vouchers

- Housing providers cannot discriminate against voucher holders
- Households with vouchers are like any other household, except they're low income
- Regardless of what happens to tenant's income, rent will be paid
- Housing agency can add an extra layer of review and support
  - For example, a housing inspection can be helpful to verify the state of the unit prior to move-in
- The housing provider's relationship with the tenant is largely the same

Thank you!

Cecilia Woodworth
Division of Rental Assistance
Assistant Director, State Programs
cecilia.woodworth@mass.gov
617-573-1411