Emergency Rental Assistance Programs and Other Tools to Prevent Evictions of Older Adult Tenants

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Housekeeping

• All on mute. Use Questions function for substantive questions and for technical concerns.

• Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.

• Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.
About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living’s Administration on Aging.
About NHLP

The National Housing Law Project was founded in 1968 as a support center to assist newly formed legal services organizations. We continue to play that role, providing technical assistance and training to legal aid attorneys and co-counseling on key litigation. We now also operate more broadly, working with organizers and other advocacy and service organizations to achieve our mission of advancing housing justice for poor people and communities.

From our earliest days, we took the lessons that we learned from our partners in the field and advocated for policy change in Washington and in state capitals. Policy advocacy and impact litigation are key components of our work and are always grounded in the lessons we learn from partners and from the Housing Justice Network, an active network of over 1,500 legal services attorneys.
About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we’ve focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.
Overview of Presentation

• Impact of COVID-19 pandemic on older adult tenants
• CDC eviction order – status and expiration
• State and local pandemic-related eviction protections
• Other tools to prevent evictions
• Rent relief programs, including the federal Emergency Rental Assistance Program
Impact of the Pandemic on Older Adult Tenants (1 of 2)

• Many older adults already struggled with housing instability due to high rent burdens, lack of affordable housing, fixed incomes, and health care costs

• The economic downturn and need for sheltering at home adversely affected many low-income older adults’ finances

• Older adults are at much greater health risk if they need to move, double up, enter/remain in a nursing home, or if they become homeless, especially where vaccination rates remain low
Impact of the Pandemic on Older Adult Tenants (2 of 2)

• Older adults experiencing homelessness face greatly increased risks of serious illness or death if they remain unsheltered or in congregate shelter

• The pandemic has had disproportionate adverse impacts on older Black, Latinx, and immigrant households
Eviction Protections Are in Flux

• Many pandemic-related eviction protections are scheduled to expire very soon

• Unclear whether federal, state, and local governments will extend protections further

• It is critical to maintain regular contact with local legal services providers to get the latest updates
  • OAA Title III-B Legal Assistance Providers
  • Legal Services Corporation Providers
The CDC Eviction Order

• Originally issued in September 2020
  • Extended twice since then

• Scheduled to expire on June 30, 2021 – unclear if it will be extended again

• Has provided some protection against evictions, but is not a blanket moratorium, so many evictions have still occurred

• Has been enforced unevenly around the country and challenged legally several times
State and Local Pandemic-Related Eviction Protections

• Range from no pandemic-related eviction protections to very strong protections and have varying expiration dates

• The stronger protections:
  • Cover tenancies not covered by the CDC order
  • Prevent evictions for reasons not covered by the CDC order
  • Involve fewer procedural barriers

• Information available at the Eviction Lab website
Other Tools for Preventing or Delaying Evictions (1 of 2)

• Rent relief programs (discussed later)

• Other COVID-related protections:
  • Restrictions on evictions for landlord who has a forbearance on a federally-backed loan on the property
  • CARES Act 30-day notice rule applies in federally-assisted properties and for tenants with vouchers
Other Tools for Preventing or Delaying Evictions (2 of 2)

• Standard eviction defenses, such as:
  • Defects in required notices or service of notice
  • Just cause protections
  • Reasonable accommodations
  • Fair housing protections
  • Learn more in previous NCLER trainings

• Rent repayment agreements
Resources from HUD

• HUD recently published an updated Eviction Prevention and Stability Toolkit that includes a tenant brochure and two new resources:
  • A **fact sheet** to assist tenants who have accrued back rent
  • **FAQs** on the Emergency Rental Assistance Program clarifying that tenants in federally-assisted rental programs, including the voucher program, are eligible for federal rental assistance
Rent Relief Programs

• Estimates of rent shortfall range widely:
  • Estimated total to date: $25 - 100 billion
  • Numbers would likely be higher if not reduced by renters borrowing or skimping on food, meds, or utilities to cover rent

• Substantial federal funds appropriated for relief:
  • CARES Act: Created the Coronavirus Relief Fund (CRF) and added funding to CDBG, ESG, other funding streams that could be used for rent relief
  • Emergency Rental Assistance Program (ERAP)

• Other funds from state and local programs and private foundations
Where Can I Find my Local Rental Assistance Program?

- National Low Income Housing Coalition’s **State and Local Rental Assistance Directory**

- Treasury Dept. **directory of rental assistance programs**

- National Council of State Housing Agencies’ **Emergency Housing Assistance Page**
Emergency Rental Assistance (ERA) Programs (1 of 2)

• Two rounds of funding:
  • 2021 Appropriations Act: $25 billion (ERA 1)
  • American Rescue Plan Act: Additional $21.55 billion (ERA 2)

• Funds are being distributed to state, local, and tribal governments, who may subgrant to other agencies for distribution

• Funds are available to cover rent, utilities, & other housing expenses incurred after March 13, 2020
Emergency Rental Assistance (ERA) Programs (2 of 2)

• Basic Eligibility:
  • “[H]ousehold must be obligated to pay rent on a residential dwelling;”
  • At least one member of the household qualifies for unemployment or has experienced a Covid-19-related financial hardship;
  • A member of the household can demonstrate risk of homelessness or housing instability; and
  • Household income at or below 80% of area median (AMI).

• Benefit cap: up to 18 total months – can include arrears and prospective payments (discretionary)
Older Adults & COVID-19
Financial Hardship

• COVID-related financial hardship should be liberally interpreted

• Many assume (incorrectly) that people living on fixed income have not had COVID-related financial hardship, but consider...
  • Renters age 65 and older who were working pre-pandemic and lost job
  • Older adults who live in multi-generational households that experienced loss of income
  • Older adults who had additional expenses to get food, medication delivered
ERA Programs: Eligibility & Residential Care Facilities

• “[H]ousehold must be obligated to pay rent on a residential dwelling”

• Residents of your state’s residential care facilities (RCFs) may be eligible for ERA Programs, depending on state law:
  • Does your state consider RCF’s a “residence” that provides housing, as well as care and supervision?
  • Do your state rules provide RCF residents with the right to notice and some hearing before discharge/eviction?
  • Is there an eviction or other court process before a resident may be asked to leave?
ERA Programs: State and Local Programs

- State and local programs have discretion to:
  - Require LLs to waive fees or some back rent
  - Condition funds on tenant protections such as no evictions for a certain time period
  - Prioritize lower-income and/or more vulnerable tenants, such as older adults
ERA Programs: Tenant or Landlord May Apply

• Funds generally paid directly to landlord or utility provider
• ERA 1: May be paid to tenant if landlord declines participation
• ERA 2: Must allow tenant to apply directly if landlord declines participation
• ERA 2: Discretion to allow tenants to apply without involvement of landlord
ERA Program Implementation

• Dollars have not been getting out quickly enough
• Treasury Dept. updated its guidance in May to try to accelerate distribution of the assistance to tenants and landlords
  • Updated rules about providing assistance directly to tenants
  • Updated rules about evictions by landlords who have been paid out of ERA Program funds
  • Updated rules about required documentation for applicants
• Advocacy likely needed to get some state and local grantees to comply and/or use their discretion usefully
Older Adults Face Barriers Accessing ERA Programs

• Barriers older adults face in accessing ERA Programs and other rent relief assistance include...
  • Lack of knowledge of program
  • Language access for immigrant, LEP households
  • Lack of internet access/home computers
  • Difficulty obtaining burdensome documentation
  • Non-cooperative landlord
How Program Administrators Can Improve Access for Older Adults (1 of 2)

• Create a simple, jargon-free application; intake helpers
  • Plainlanguage.gov

• Identify and engage trusted community partners to conduct outreach at senior centers, meal sites, community health clinics, and foodbanks

• Provide translated materials in languages spoken by older resident population
  • LEP.gov
How Program Administrators Can Improve Access for Older Adults (2 of 2)

- Allow self-attestation of many eligibility factors
- Provide multiple ways for tenants to submit an application, including a phone app and a paper application for those with limited internet access
  - Share information on the Emergency Broadband Benefit

- **Best Practice for State & Local Emergency Rental Assistance Programs**
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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.