

Eviction Prevention for At Risk Tenants: A Message to HUD Program Grantees

The CARES Act **Eviction Moratorium ended on July 24, 2020**. States, localities, and nonprofit organizations that administer HUD grant programs can play a crucial role in promoting housing stability during this difficult time. HUD strongly encourages its grantees to take action to keep as many families stably housed as possible.

Grantees are advised that tenant-landlord relationships are governed by state and local law and landlords must comply with applicable laws, including any state or local eviction moratoria that may remain in effect.

HUD recognizes that many low income residents are also facing new challenges due to COVID-19, such as job loss, reduced hours and income, loss of childcare, limited access to healthcare, illness, death of loved ones, increased incidents of domestic violence, rising costs for basic needs, among possible other concerns resulting from further uncertainty. The process of evicting residents can be costly to landlords, from court and legal fees to unit turnover costs and an eviction can adversely affect the housing and financial stability of an individual or household for many years to come.

HUD strongly encourages all grantees and owners of HUD-assisted housing to work with tenants at-risk of eviction to negotiate **rent repayment plans** to help them stay housed. To this end, HUD is providing the following tools to help grantees and project owners to help identify and engage at-risk tenants, as well as to inform and guide tenants seeking a rent repayment plan:

Tools for Landlords with Tenants Impacted by COVID-19 – This document will help landlords to engage with at-risk tenants while remaining in compliance with fair housing laws and understand the key elements of a repayment plan. The document provides links to sample rent repayment agreements.

Tenant Guidance: Rent Repayment Plans – This document will assist at-risk tenants in understanding and pursuing rent repayment agreements with their landlords. The document includes links to helpful resources and a sample script for requesting a repayment agreement from a landlord. Use of this guidance is optional and grantees and tenants are strongly cautioned to review their state and local laws as under some laws, a tenant notifying an owner of the inability to pay rent is sufficient for the owner to initiate eviction proceedings.

For more information about HUD's response to the COVID-19 pandemic, visit <https://www.hud.gov/coronavirus>

Tens of millions of Americans are experiencing job loss, reduced hours, and reduced income due to the economic effects of COVID-19. To mitigate the negative impacts of income loss, the federal government and state and local governments across the United States have imposed eviction moratoriums. The primary federal eviction moratorium for HUD-assisted housing mandated by the CARES Act expired on July 24, 2020. Even as this or other federal moratoriums are lifted, state and local moratoriums may remain in place.

1. Engaging Landlords on Repayment Plans

2. If you are a tenant and have not been able to pay your rent since the COVID-19 pandemic began, here are some key things to keep in mind as you engage your landlord to establish a payment plan and stay housed.

3. Be Proactive in Communication and Establish a Repayment Plan that Works for You

4. The best connections to landlords are built on clear and transparent communication. Do not wait until the rent is due to let them know that you are experiencing challenges that impact your ability to pay rent. Say that you would like to talk with them about a repayment plan (examples below). As you begin working with your landlord on a repayment plan, establish a plan that works for you and do not agree to payment amounts or schedules that you are unable to support. A potential script is attached on the next page. (Note: In most cases a landlord is not required to agree to a rent repayment plan.)

5. Sample Repayment Agreements:

- a. https://www.hud.gov/sites/documents/DOC_35535.PDF
- b. http://www.mnhousing.gov/get/MHFA_017809

6. Lean on Your Network and Believe in Your Strengths

7. Staying housed in a time of crisis is difficult and can stretch a lot of personal resources, not just your finances. When looking to set up a repayment plan, you might want to include someone from your personal network in that process. Take this time to stay positive and build on your strengths and assets.

8. HHS COVID Mental Health Resources:

<https://www.hhs.gov/coronavirus/mental-health-and-coping/index.html>

9. **CDC Mental Health Guidance:** <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/managing-stress-anxiety.html>

Example Script

[Note: It is solely the responsibility of the tenant to initiate and submit such a request.]

Dear _____,

My name is _____. I am your tenant living at: _____(Address).

Like so many people right now, I have lost income due to the coronavirus pandemic. I am doing everything I can to find work and financial assistance. I have done all of the following [include what you have done like: applied for unemployment, engaged social service agencies for emergency assistance, applied for other benefits, applied for X number of jobs, etc.]

However, I am still struggling right now. I may not be able to pay my rent in full on time in the coming months.

I would like to work with you to establish a reasonable rent repayment plan so you will get rent and I will be able to keep my housing. I would be happy to meet (by phone, video call, or another platform, or over e-mail) to discuss options for payment. You can reach me at this phone number or e-mail address:

I understand that more assistance may become available to landlords and tenants. I will apply for any programs that are available to me.

I really hope we can work together through this difficult moment. I look forward to hearing from you.

Sincerely,

Tenant Signature

Date Signed

Key Resource Links

Below are links to key benefits that may assist you and enable you to repay owed rent.

- **Benefits Eligibility (TANF, SNAP, etc.)**
 - www.benefits.gov
- **Unemployment expanded eligibility and enhanced benefits**
 - www.usa.gov/unemployment
 - www.careeronestop.org/LocalHelp/UnemploymentBenefits
- **Economic Impact Payments**
 - <http://www.irs.gov/coronavirus/economic-impact-payment-information-cente>
- **Free tax preparation**
 - <https://irs.treasury.gov/freetaxprep>
- **Emergency assistance resources to help households pay for rent, utilities and other basic necessities**
 - Local governments and Community Action Agencies may have additional rental and utility assistance available for individuals who meet qualifying criteria.
 - Dial 211 from any phone or visit <https://www.211.org/> and search by zip code for referrals to agencies and community organizations that offer emergency financial assistance. Callers can request translations services.
 - www.usa.gov/help-with-bills
- **Childcare for Essential Workers**
 - www.acf.hhs.gov/sites/default/files/occ/state_level_info_for_essential_workers_seeking_child_care.pdf
- **Immediate jobs available due to COVID-19**
 - <https://www.usajobs.gov/coronavirus>
 - <https://needajobnow.usnlx.com>

Tens of millions of Americans are experiencing job loss, reduced hours, and reduced income due to the economic effects of COVID-19. Many residents are also facing new challenges, such as loss of childcare, limited access to healthcare, illness, death of loved ones, increased incidents of domestic violence, rising costs for basic needs, and fear of uncertainty. Nationally landlords have been or are still under a wide variety of federal, state, and local moratoriums on evictions, late fees, and penalties related to nonpayment of rent, and even as certain federal moratoriums are lifted, state and local moratoriums may remain in place. The process of evicting residents can be costly to landlords, from court and legal fees to unit turnover costs. With many tenants unable to pay rent, landlords have been offering tenants flexibility in repaying missed rent. These options can be used in combination:

- Deferring or reducing payment of past due rent
- Deferring or reducing future rent payments until tenant's income increases
- Applying a security deposit or last month's rent to unpaid rent (if allowed by law)

It is important to follow fair housing laws as you make your decisions on whether or not to offer plans to individual tenants. Under federal law, you cannot discriminate based on race, ethnicity, family status, disability, or other factors. Some localities and states also prohibit unequal treatment based on the tenant's source of income (housing assistance, child support, disability payments, etc).

Engaging Tenants to Avoid Evictions

Targeting Engagement to At-Risk Tenants

Be proactive to engage your tenants to improve retention and rent repayment.

- Identify how many and which households are behind on rent rather than making general announcements about assistance.
- Consider modifying policies that require an initial large payment before smaller regular payments can begin.

- Communicate with households that are behind on rent to ensure they understand rent payments are expected during any moratorium. Tenant advocacy groups report some households mistakenly believe that they do not need to pay rent during an eviction moratorium.
- Include information about available safety net benefits with rent reminder notices and discuss benefit options that you know about during one-on-one conversations with tenants. Key benefits may include unemployment benefits, economic impact payments (stimulus payments), tax refunds such as the Earned Income Tax Credit (EITC), utility assistance or payment plans, and local rent and utility assistance resources.
- Ask residents with limited English proficiency or individuals with disabilities if there is anyone they would like to include in the conversation to support their understanding of the steps they can take to maintain their housing. (i.e. a family member or case manager).

What questions should you ask At-Risk Tenants?

- *Could you tell me why you are asking for a repayment plan?*
- *How much was your total monthly income before COVID-19? How much is it now? **Be sure not to ask impermissible questions about the source of income.*** (Check for state and local statutes governing source of income questions.)
- *How long do you think your income will stay at the level it is now?*
- *Have you applied for unemployment or any other assistance (e.g., help paying bills)? **Again be sure to avoid questions that may violate fair housing laws or regulations.*** (Check state and local fair housing statutes and see rights and obligations under the federal Fair Housing Act:
[https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_rights_and_obligations.](https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_rights_and_obligations))
- Have you reached out to any family or friends who might be able to help you pay your rent? Have you reached out to a bank or a credit union for a loan that you could use to pay your rent?
- How many months do you think the repayment plan needs to be in order to help you catch up?

What documentation should you require?

Making sure that you are following fair housing and disability rights laws, you might want to ask tenants to document their need for assistance.

Some examples of documentation might include:

- Healthcare professional note that tenant was unable to work due to illness (or dependent required care)
- Termination or furlough notice
- Pay stubs reflecting reduced hours
- Bank statement reflecting reduced income
- Signed letters from employer or bank

What Are the Key Elements of a Repayment Plan?

Links to numerous sample repayment plans are at the end of this document. If you decide to create your own agreement, below are some key elements to consider including in the document. *This list does not constitute or substitute for legal advice.*

- The delinquent rent payments (if any) future rent payments (if any) included in the repayment amount.
- The amount of any security deposit or last month's rent (if allowed under local or state law) to be applied to reduce the repayment amount.
- Any voluntary reductions by the landlord of past or future rent owed.
- The amount of any late fees, interest, or penalties that have been added (if allowed).
- The total amount subject to repayment.
- A payment schedule, with the due date and amount of each payment, agreed to by the tenant.
- An indication of whether these payments include or exclude future rent.
- Acknowledgement that all other provisions of the original lease remain in force.
- An agreement by the landlord not to commence eviction based on nonpayment or submit any negative information to credit reporting agencies if payments are made as scheduled.
- The tenant's acknowledgement of the consequences of one or more late payments:
 - All unpaid rent becomes due immediately.

- The landlord may initiate eviction and reclaim possession of the premises.
- The landlord may pursue other remedies to obtain unpaid funds.
- The tenant’s acknowledgement of other conditions voiding the repayment plan (e.g., other lease violations, moving out, or subleasing the property).
- A description of conditions that terminate the repayment agreement (e.g., full payment, a set end date, or another event, such as the end of an emergency order or the tenant returning to work).
- An agreement by the tenant to regularly update the landlord on the tenant’s financial situation.
- Space for signatures of the landlord or property manager and all tenants listed on lease.

Agreement Templates

The inclusion of these examples and resources does not constitute an endorsement of any private organization listed below.

Template Source	Link
HUD Office of Federal Housing Commissioner	https://www.hud.gov/sites/documents/DOC_35535.PDF
Minnesota Housing	http://www.mnhousing.gov/get/MHFA_017809
California Association of Realtors	https://www.car.org/-/media/CAR/Documents/Transaction-Center/PDF/Risk-Management/COVID19/RPD_4-6-2020.pdf
National Apartment Association	https://www.naahq.org/sites/default/files/naa-documents/final_-_naa_payment_plan_agreement.pdf
Texas Realtors / Waco Association of Realtors	https://wacorealtors.net/wp-content/uploads/2020/04/Texas-Realtors-COVID-19-Lease-Payment-Plan-Agreement.pdf