

Preventing Evictions Due to SNAP Benefits Lapse: **Policy Advocacy Strategies and Protections Under Federal Law**

Due to the federal government shutdown, Supplemental Nutrition Assistance Program (“SNAP” or “food stamps”) benefits will not be available for November, 2025, unless your state or city has a contingency plan to fund the program, or the Trump administration decides (or is ordered) to change course and use its contingency reserve.¹ Low-income tenants who rely on food stamps to feed their families will be immediately faced with difficult choices about how to cover food expenses at the same time that their November rent is due. This could result in a surge in evictions due to nonpayment of November rent. NHLP has put together the following ideas and resources for HJN advocates to defend evictions related to the lapse in SNAP benefits. During this time it will be critical for advocates to work collaboratively with housing providers and other stakeholders to prevent loss of housing for families experiencing temporary food insecurity.

Advocates who work at legal services offices that have public benefits units are encouraged to collaborate with colleagues who handle SNAP issues. Food banks have stepped up to help provide for families during the lapse. You can locate your local food banks at <https://www.feedingamerica.org/find-your-local-foodbank>.

I. Defending Evictions of Federally Subsidized Tenants

Federally subsidized tenants have certain protections that may apply to evictions for nonpayment of rent related to the lapse in SNAP benefits. Because SNAP is not counted as income under federal law,² the lapse or loss of SNAP benefits will not necessarily entitle tenants to an interim reexamination that would lower their rent.

To determine whether your client lives in federally subsidized housing, check the [National Housing Preservation Database](#), and look up program-specific eviction protections in the [NHLP Green Book](#). In addition to the following, advocates may want to review NHLP’s [Eviction Court Cheat Sheet: Notice and Procedural Requirements in Federally Subsidized Housing](#) for procedural protections by program.

- a. **Inability to pay rent because of circumstances outside of a tenant’s control should not be considered “good cause” for eviction.** For tenants in federally subsidized housing programs with “good cause” eviction requirements, including LIHTC, advocates should argue that delayed rent payment under the circumstances is not good cause for eviction. See, generally, Section 11.2 of the Green Book. In the alternative, advocates can argue that nonpayment under these unique circumstances is neither a serious nor

¹ Note that this is a rapidly changing situation. The information in this resource is updated as of October 31, 2025 at 1:00 PM E.S.T. As of that date a group of democratic states have sued the administration seeking an injunction to prevent the lapse. See *Commonwealth of Massachusetts v. United States Department of Agriculture*, No. 1:25-cv-13165 (D. Mass.). The court is expected to rule on whether to enjoin the lapse.

² SNAP benefits are excluded under federal law. See 24 C.F.R. § 5.609(b)(22); *Federally Mandated Exclusions from Income- Updated Listing*, 89 Fed. Reg. 6126 (Jan. 31, 2024); see also HUD, HANDBOOK 4350.3: OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS, REV-1, CHG-4 at 5-22 (Aug. 2013); HUD, *Income Determination*, PUBLIC HOUSING OCCUPANCY GUIDEBOOK at 43 (June 2020).

repeated lease violation sufficient to justify eviction under applicable regulations, and is instead a minor one-time violation related to circumstances outside of the tenant's control. 24 C.F.R. §§ 982.310(a); 983.257 (serious or repeated violation is grounds for eviction during initial lease term in HCV program, or at any time in PBV program); 24 C.F.R. § 966.4(l)(2) (serious or repeated violation is grounds for eviction from public housing); 24 C.F.R. § 257.3 (material noncompliance is grounds for eviction from PBRA housing; defining "material noncompliance" as serious violation or *repeated* minor violations).

- b. HUD tenants on minimum rent are entitled to a hardship exemption:** Tenants across HUD programs on minimum rent are entitled to a hardship exemption that allows them to pay \$0 rent (and receive a utility reimbursement if applicable) if "the family is unable to pay the minimum rent because of financial hardship . . ." 24 C.F.R. § 5.630(b)(1). In addition to any additional sources of financial hardship listed in provider's policies, financial hardship is defined to include "when the family has lost eligibility for . . . a Federal, State, or Local assistance program," "When the family would be evicted because it is unable to pay the minimum rent," and "When the income of the family has decreased because of changed circumstances." *Id.* Lapse of SNAP benefits because of the government shutdown should entitle tenants to a hardship exemption. Note that if the PHA or owner determines that the financial hardship is temporary, as may be the case here, it can reinstate the minimum rent retroactive to the beginning of the hardship period. In such a case, the regulations require that the family be offered a reasonable repayment agreement. 24 C.F.R. §§ 5.630(b)(2)(i)(D); (ii)(C).
 - i. Public Housing Tenants:** Public housing tenants may not be evicted during the 90-day period beginning the month following the family's "request" for a hardship exemption.³ 24 C.F.R. § 5.630(2)(i)(C). Public housing tenants are entitled to a grievance proceeding if their hardship exemption request is denied. 24 C.F.R. § 5.630(3). Advocates should argue for retroactive application of any rent change to November 1st, since tenants cannot know for certain whether their SNAP benefits will lapse until that day. Although HUD has delayed the compliance date, the HUD regulation currently in effect clarifies that retroactive rent decreases are permissible: "Rent decreases will be effective the first day of the month after the date of the actual change leading to the interim reexamination." 24 C.F.R. § 960.257(b)(6)(i). Here, the "actual change" is arguably congressional inaction preceding November 1st that led to the lapse; therefore any change should be retroactive to the beginning of November. HUD has assembled a [useful toolkit](#) for the hardship exemption in public housing.
 - ii. RAD Tenants:** When a public housing property undergoes a RAD conversion, tenants' rights under Section 6 and 9 of the U.S. Housing Act must be preserved. Consolidated and Further Continuing Appropriations Act of 2012, Pub. L. 112-55, 125 Stat. 552, 674 (Nov. 18, 2011). The hardship exemption appears in Section 6 of the Act, 42 U.S.C. § 1437a. Therefore, all of the protections applicable to

³ What constitutes a "request" for hardship exemption is not defined in federal law and is the subject of current litigation. Advocates should argue that no "magic words" are required to request a hardship exemption from minimum rent.

public housing tenants, including the 90-day eviction suspension and grievance rights, should apply. 42 U.S.C. § 1437a(3)(B)(ii).

iii. Section 8 Tenants (Voucher programs and Project-Based Rental Assistance):

Section 8 tenants have the same protections as public housing tenants, except that the regulations do not prohibit the private owner from evicting during the 90-day period following the hardship exemption request. 24 C.F.R. § 5.630(b)(2)(ii). However, advocates should argue that any eviction action should be suspended or continued while a hardship exemption request is pending, because if the request is granted, HUD or the PHA will pay the exempted portion of rent. Advocates should argue for retroactive application of the rent decrease. Regulations in effect (but with delayed compliance dates) clarify that retroactive application of rent decreases are permissible in both the HCV Program and PBRA. 24 C.F.R. § 982.516(c)(4)(i) (HCVP); 24 C.F.R. § 5.657(c)(5)(i) (PBRA). For PBRA, the Multifamily Occupancy Handbook also explicitly allows retroactive application of rent decreases if timely reported.⁴

- c. HUD tenants with disabilities and seniors are entitled to a deduction for unreimbursed health expenses:** Half of all SNAP households include an individual who is elderly or has a disability (10.7 million people).⁵ In all HUD programs, people with disabilities and seniors are entitled to a deduction equal to the amount that an unreimbursed health expense exceeds 3% of their annual income.⁶ See 24 C.F.R. § 5.611. Advocates should argue that food is an unreimbursed health expense and that the client is therefore eligible for a deduction in an interim reexamination. For example, if a person with disabilities spends \$200 per month on food, previously covered by SNAP, and their annual income is \$12,000, they would be eligible for a deduction of their food expenses to the extent that they exceed \$360 annually (3% of \$12,000). In this case they would be eligible for a deduction of a little more than \$2,000, bringing their annual income down to \$10,000. This would result in a corresponding deduction in their rent portion. Advocates should argue for retroactive applicability of any rent decrease to November 1st (see subsection (b)).

⁴ HUD, HANDBOOK 4350.3: OCCUPANCY REQUIREMENTS OF SUBSIDIZED MULTIFAMILY HOUSING PROGRAMS, REV-1, CHG-4 at 7-28 (Aug. 2013).

⁵ Mia Monkovic and Ben Ward, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2023*, U.S. Department of Agriculture, Food and Nutrition Service, Evidence, Analysis, and Regulatory Affairs Office (2025), <https://www.fns.usda.gov/research/snap/characteristics-fy23>.

⁶ An updated version of this regulation that reflects changes under HOTMA is currently in effect. The updated version increases the threshold for deduction to 10% of annual income. 24 C.F.R. § 5.611(a)(3). In addition, the updated regulation adds a new general hardship deduction for seniors and people with disabilities where “the family’s financial hardship is a result of a change in circumstances (as defined by the responsible entity) that would not otherwise trigger an interim reexamination” to the extent that it exceed 5% of annual income. 24 C.F.R. § 5.611(c)(2). However, the compliance dates for these new and updated provisions have been pushed back repeatedly due to delays in updating HUD-provided technology to process changes. For Section 8 PBRA, the compliance deadline for these provisions is [pushed back to January 1, 2026](#) and for public housing and the voucher programs it is [pushed back indefinitely](#). Therefore the version of § 5.611 that the provider is required to comply with is the prior effective version, which is accessible through Westlaw or Lexis Nexis.

- d. **Tenants with disabilities are entitled to reasonable accommodation:** Households with a member with a disability have double the prevalence of food insecurity.⁷ In addition, food insecurity can aggravate an individual's disability by impacting their ability to afford and take medication as instructed.⁸ Both federally subsidized and private market housing providers are required to grant reasonable accommodations to tenants with disabilities under federal antidiscrimination laws, such as the Fair Housing Act.⁹ In many states, reasonable accommodation can be raised as a defense to eviction. For example, you might argue that the tenant lives on a fixed income because of their disability, and therefore relies on food stamps to pay for food. The tenant should be entitled to a grace period or reasonable repayment plan as a reasonable accommodation where their SNAP benefits have lapsed due to circumstances outside of their control.¹⁰ You may also argue that the eviction proceeding should be continued or suspended until benefits are reinstated as a reasonable accommodation for the tenant's disability.
- e. **Tenants of MTW PHAS may benefit from flexibilities:** Moving to Work ("MTW") PHAs have significant administrative flexibilities that may allow them to grant relief or waive certain requirements for tenants unable to pay rent due to the lapse in SNAP benefits. Advocates in MTW jurisdictions should check their PHA's MTW Plan, Administrative Plan (voucher programs), and Admissions and Continued Occupancy Policy (public housing) to determine what policies may apply.

II. Defending Evictions of Tenants in the Private Market

When defending evictions in the private market, advocates should rely on their typical arsenal of procedural and substantive defenses under state and local law. In addition, in states where eviction court judges have discretion or equitable powers,¹¹ it will be important to argue to the court that evicting a tenant because they had to use their rent money for food is unreasonable and unjust. A court cannot in good conscience require a parent to forgo food for their children in order to pay their rent on

⁷ Megan Henley et al, *Food insecurity among those with disability: Cross-survey comparison of estimates and implications for future research*, Appl Econ Perspect Policy (March 2, 2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11872223/>; Mia Hadfield-Spoor et al, *Food insecurity among disabled adults*, Eur J Public Health (May 13, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9341842/>.

⁸ Mithuna Srinivasan et al, *Cost-Related Medication Nonadherence for Older Adults Participating in SNAP, 2013-2015*, American Journal of Public Health (Feb. 2018), <https://ajph.aphapublications.org/doi/10.2105/AJPH.2017.304176>; Jennifer A. Pooler et al, *Association Between Supplemental Nutrition Assistance Program Participation and Cost-Related Medication Nonadherence Among Older Adults With Diabetes*, JAMA Network (Nov. 19, 2018), <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2715159>.

⁹ See 42 U.S.C. 3604(f)(3)(B); [Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Reasonable Accommodations Under the Fair Housing Act](#).

¹⁰ "It is clear under the [FHA] that a landlord may be 'required to incur reasonable costs to accommodate [a person's handicap] provided such accommodations do not pose an undue hardship or a substantial burden.'" *Hubbard v. Samson Mgmt. Corp.*, 994 F. Supp. 187, 190 (S.D.N.Y. 1998) (quoting *Shapiro v. Cadman Towers, Inc.*, 51 F.3d 328, 335 (2d Cir. 1995)).

¹¹ See, e.g., Wash. Rev. Code Ann. § 59.18.410(3)(a) (allowing a Washington eviction court to stay a writ of restitution "upon good cause and on such terms that the court deems fair and just for the parties"); *Hartmann v. Bank of La.*, 95-3058, p. 19 (La. 12/13/96), 702 So. 2d 648 (Louisiana courts may exercise equitable discretion in cases involving unusual circumstances).

time, where circumstances entirely outside of the tenant's control have caused a lapse in their food assistance. In addition, private market tenants with disabilities may be entitled to reasonable accommodation under the Fair Housing Act. See subsection (I)(d), *supra*, for additional details.

For advice or assistance on eviction-related trial and appellate advocacy, reach out to Hannah Adams at hadams@nhlp.org or Eric Dunn at edunn@nhlp.org.

III. **Strategies for Eviction Prevention Policy Advocacy**

In addition to individual defense, there may be opportunities for state or local policy advocacy to prevent evictions during temporary lapses in public benefits, such as SNAP. Here are some examples of advocacy strategies.¹²

- a. **Legislative Action:** The California legislature has enacted the [Social Security Tenant Protection Act of 2025](#) which adds Section 1946.3 to the California Civil Code. The act stays unlawful detainer actions where the tenant provides evidence that the tenant's Social Security payments have been interrupted "due to the action or inaction of the federal government." The law remains in effect until January 20, 2029 (the end of the Trump administration). Other states (or local jurisdictions if not preempted) could consider similar legislation that expands the protection to lapses in other public benefits.
- b. **Executive Action:** Advocates should check their state and local laws governing emergency powers. There are several examples of governors taking executive action post-disaster that could be replicated in response to the federal government shutdown and lapse in SNAP benefits.
 - After the 2024 LA wildfires, California Governor Gavin Newsom issued [Executive Order N-11-25](#), which suspended a portion of the California Code of Civil Procedure so as to prohibit eviction based on unauthorized occupancy by displaced fire survivors in Los Angeles County.
 - After Hurricane Ida in 2021, former Louisiana Governor John Bel Edwards issued [Proclamation 170 JBE 2021](#), suspending all legal deadlines applicable to legal proceedings in all courts (See Section 2). The act of suspending or extending legal deadlines will function as a moratorium on evictions in many jurisdictions because an eviction hearing cannot go forward unless statutory notice and response periods have run.

In some jurisdictions local officials may be empowered to take action to curb evictions in response to the emergency of the SNAP benefits lapse. By way of example, the LA Tenant's Union [has called for a county-wide eviction moratorium](#) in response to violent ICE raids. The LA County Board of Supervisors [declared a state of](#)

¹² Legal Services Corporation ("LSC") funded organizations can engage in some of the advocacy described herein. However, some types of advocacy may be barred. For more detailed information or specific questions, please contact Hannah Adams at hadams@nhlp.org.

[emergency](#) due to the immigration raids, which would allow it to vote to impose such a moratorium.

- c. **Judicial Action:** Advocates can conduct advocacy with state supreme courts to obtain temporary relief similar to that granted post-disaster. For an example of a state supreme court order that suspended legal proceedings and/or legal deadlines post-disaster, see [March 2020 order of the Chief Justice of the Supreme Court of North Carolina related to COVID-19](#).
- d. **Administrative Action:** In addition to state and local moratoriums, advocates are encouraged to work with state and local housing agencies to curb evictions from properties in their inventories.
 - o You may be able to advocate with your local PHA to temporarily suspend or stay evictions of public housing tenants in PHA-controlled properties. You could also advocate for the PHA to contact HCV, PBV, and third party PHA owners and managers notifying them of the lapse in benefits, encouraging flexibility, and advising that appropriate rent adjustments will be made retroactively. Though PHA advocacy can happen at any time, PHAs must solicit public comment on periodic changes to their Administrative Plan (voucher programs) and Admissions and Continued Occupancy Policy (public housing), and have a great deal of discretion to enact policies to address local conditions.
 - o You may be able to advocate for your state Housing Finance Agency (“HFA”) to send guidance to owners and managers of Low-Income Housing Tax Credit (“LIHTC”) properties, and other properties it subsidizes, strongly encouraging a suspension of evictions for tenants impacted by the lapse in SNAP benefits. Particularly within the first fifteen years of the LIHTC restricted use period, property owners are typically receptive to HFA guidance because of concerns about compliance and credit recapture. You can also advocate for your HFA to include favorable policies in its Compliance Manual and/or Qualified Allocation Plan (“QAP”). These policies could include a requirement to consider certain circumstances before eviction, or a requirement to suspend evictions after a disaster declaration or other emergency. QAPs are subject to public comment. For more information, see NHLP’s [Advocate’s Guide to Tenants’ Rights in the Low-Income Housing Tax Credit Program](#).

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