

April 4, 2013

New HSA by-law for co-ops

The *Housing Services Act* that replaced the *Social Housing Reform Act* brought changes for municipally funded co-ops. To help co-ops effectively manage those changes and comply with the HSA, regulations and local service manager rules, the Ontario Region has prepared a complete model by-law. It is posted in Word and pdf in the Funding Program section of the Resource Centre on CHF Canada's website (www.chfcanada.coop).

The Model Membership Approval and Unit Allocation By-law also needed updating to comply with the HSA. The updates mean that the HSA By-law and the Membership Approval and Unit Allocation By-law work together. Your co-op should adopt both of the by-laws.

Adopting the HSA By-law

The HSA By-law will replace the SHRA by-law. If your co-op has adopted the SHRA, you will need to repeal it. If your co-op never adopted the SHRA by-law, carefully figure out which sections of the HSA by-law are going to replace sections of your by-laws and repeal those sections.

Your board should review the HSA By-law and all the appendices, schedules, forms and attachments and make any necessary changes. These changes include

- adding your co-op name on the front page and adding the by-law number
- adding your co-op name to all the appendices and forms
- adding the name of your co-op on page 5
- adding the name of your service manager in section 1.1(e)
- listing the by-laws or parts of by-laws that have to be replaced in section 1.3(b)
- changing the numbering of the appendices to match your occupancy agreement
- changing the section references to match your co-op's by-laws
- changing the attachments so they match your service manager's local rules
- making policy decisions where the co-op is allowed to set its own rules.

Many co-ops have adopted the Model Occupancy By-law originally published by the Co-op Housing Bookstore and now available in the Resource Centre of the CHF Canada website. In different areas, the HSA By-law refers to specific sections of the Model Occupancy By-law. Even if your co-op used the Model Occupancy By-law, you must still check these numbers because they may not match what is in your by-law. If your co-op did not use the Model Occupancy By-law you will need to find the relevant sections in your own by-law or occupancy agreement and refer to them.

There are places in the HSA By-law where your co-op has to make a decision. These places are highlighted for you. One example is section 4.3 (Income of Guests) where the co-op must decide when the income of a guest will be included in the housing charge calculation for an RGI unit. (Your service manager may have a rule about this so the co-op does not have to make a decision but has to put in the service manager's rule).

There are many parts of the by-law that cannot be changed. The rules in these sections are required by the HSA, regulations or the service manager's local rules. One example is section 3.5 that gives priority on the internal waiting list to RGI households that are overhoused. When the board presents

the by-law to the members, it should make it clear which parts of the by-law the members cannot change.

To save the Co-op from having to amend the HSA by-law every time the province or the service manager changes a rule, in some places, there is a reference that the co-op will follow government requirements and the specific rule is not set out. You will note that the Attachments to the by-law are not part of the by-law and can be changed as government requirements change. This will also help co-ops avoid amending their by-law each time the rules change. It will be up to your co-op manager to keep up to date about the rules.

For more information about adopting by-laws, you can read *How to adopt a by-law* which can be found in the *Forms, by-laws and more* section of the Resource Centre on CHF Canada's website.

What's in the HSA By-law?

Article 1: About this By-law

This article

- sets out definitions of certain words
- gives the priority of the rules that the co-op must follow
- lists the by-laws or parts of by-laws that are replaced by the HSA By-law.

Article 2: Occupancy Agreement

To meet the new HSA requirements, we have included new appendices to your occupancy agreement:

- Appendix A: Charges to the Member
- Appendix B: Member's Household
- Appendix C: Terms of the Member's Housing Charge Subsidy
- Appendix E: Terms of the Member's Special Needs Housing.

Your service manager will set the rules about who has to sign the appendices. Everyone who signs does not have to be a member of the co-op. Some residents may sign as "non-member" occupants.

Appendices A and B are signed by all households. Appendix C is signed only by households receiving RGI subsidy. Appendix E is signed only by households that live in a special needs unit.

Article 2 explains when these new appendices should be signed.

Two things to note:

- The HSA By-law does not change the occupancy agreement itself. If your co-op adopted the Model Occupancy By-law or the SHRA By-law, then these new appendices will simply replace the old ones. If your co-op has a different occupancy by-law and agreement, then you will need to check what appendices are affected.
- Your service manager may set local rules about what has to be included in the appendices. Make sure you adapt the appendices to reflect local rules.

Article 3: Required internal transfers

The HSA By-law does not include a complete internal transfer policy. It only sets out procedures

- requiring overhoused RGI households and special needs households who are no longer eligible for special needs housing to transfer
- for members requesting special priority status on the internal waiting list.

These procedures should work with your co-op's internal transfer policy. The Model Membership Approval and Unit Allocation By-law sets out a complete internal transfer policy that works with the HSA By-law.

Under the Regulations, service managers must set rules about internal transfers. These rules will include

- Priority for special priority members requesting an internal transfer
- Priority for overhoused households who are required to move
- The number of units an overhoused household may refuse without losing their geared-to-income assistance
- The number of units a special priority member requesting a transfer may refuse without being removed from the internal waiting list
- When a refusal is not counted.

Note: These rules are not included in the HSA By-law but your co-op manager should have copies of the rules from your service manager and should follow them.

Article 4: Guest rules

The regulations say that the co-op must have a guest policy for RGI households.

You may already have a guest policy as part of your occupancy by-law. It does not have to change. Article 4 applies only to guests in RGI units. It sets a cut-off point when the income of a guest is included in the RGI housing charge calculation. Your service manager may set the cut-off point or if the service manager does not set one, the co-op will have to decide.

If your co-op does not have a guest policy, then you will need to adopt one. We have included a sample that you can adopt as Appendix D to this By-law.

Article 5: Special Needs Eligibility and waiting list

If your co-op does not have any special needs units identified in its target plan, you can delete this article.

Most co-ops will use their service manager's centralized waiting list to fill its special needs units or will have an agreement with an agency such as March of Dimes or Community Living. Some co-ops have been designated special needs housing administrators under the HSA which means they will keep their own waiting list for special needs units. In section 5.1, you need to select the correct paragraph depending on whether your co-op is a special needs housing administrator.

If your co-op is a special needs housing administrator, you will need to review the eligibility of special needs households every year. If your co-op is not a special needs housing administrator, your service manager may delegate the responsibility for reviewing eligibility for special needs housing each year to you.

A change from the SHRA By-law is that if the co-op is responsible for reviewing the eligibility for special needs housing, it will not ask the household for information and documentation every year if the previously submitted information is adequate.

Article 6: Procedures for Decisions, Reviews and Notices

Under the Act, some decisions about RGI assistance and special needs housing can be appealed. These appeals are called reviews: The following can be appealed:

- A decision that a household is not eligible or is no longer eligible for RGI assistance
- A decision that a household is not eligible or is no longer eligible for special needs housing
- A decision about the size and type of unit for which a household is eligible, if the household pays or will pay RGI housing charges or is a special needs household
- A decision about the amount of RGI housing charges payable by the household
- A decision about whether or not a household is included in the special priority category.

Some of these decisions will be made by the service manager and some of them will be delegated to the co-op.

The co-op's service manager will set local rules about how to give notice of a decision. These rules should be put in Attachment 1. If your service manager has not set their rules yet, you can use the Attachments as they are. The Attachments do not form part of the by-law and can be changed as needed without confirmation by the members.

Some service managers will do the reviews of decisions and some will delegate them to co-ops. It could be different for different types of decisions. For example, in the City of Toronto, co-ops do the reviews of all decisions except those that deal with cutting off a member's subsidy.

No one who discussed a decision or who took part in making a decision can be involved in the review. Also anyone who is taking part in the review must be knowledgeable about the relevant rules.

The co-op's service manager will set local rules about how someone can request a review and what the procedure for the review is. You should put these rules in Attachments 2 and 3. If your service manager has not set their rules yet, you can use the Attachments as they are. The Attachments do not form part of the by-law and can be changed as needed without confirmation by the members.

Article 7: Selection of geared-to-income and special needs members

The regulations set out limited reasons why a co-op can refuse an RGI or special needs applicant. The reasons are listed in section 7.4 (Refusal of Geared-to-Income and Special Needs Applicant).

The first time an application from a household is refused, the Co-op will give the applicant written notice of the refusal. This is a change from the SHRA. Your service manager will set the rules for what must be included in the notice of refusal.

Applicants who are refused the first time can appeal the decision. This appeal is called a review and is conducted by the board. The service manager sets the rules about requesting a review and the procedure for the review. You should put these rules in Attachments 4 and 5. If your service manager has not set their rules yet, you can use the Attachments as they are. The Attachments do not form part of the by-law and can be changed as needed without confirmation by the members.

For more information

For more information, please call **Diane Miles**, **Judy Shaw** or **Keith Moyer** at the Ontario Region at 1-800-268-2537 (in Toronto, call 416-366-1711). E-mail: dmiles@chfcanda.coop, jshaw@chfcanda.coop or kmoyer@chfcanda.coop. In southwestern Ontario, call **Denise McGahan** at 1-800-644-3949 (1-519-453-0999 in London). E-mail dmcgahan@chfcanda.coop.

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