

# Do You Think Older Renters on a Fixed Income Can't Get Help with Back Rent? Think Again!

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## Background

Preventing evictions of older adults is essential to avoiding a dramatic increase in homelessness and to protecting health and safety during the pandemic, as older adults are more at risk for severe illness and death due to COVID-19. This issue brief explains how older adults and others living on a fixed income can qualify for Emergency Rental Assistance Program (ERAP) assistance to pay off their back rent and utilities, preventing evictions and utility shut-offs. Unfortunately, many older renters have been left behind, thinking they are not eligible for this critical assistance. Aging services and elder rights professionals can play a critical role to identify older adults who may need and benefit from ERAP, as well as assist with applications and connect older adults to legal assistance when needed.

According to the Centers for Disease Control (CDC), evictions threaten to increase the spread of COVID-19 as they force people to move—often into close quarters in shared housing settings with friends or family or into congregate settings such as homeless shelters.<sup>1</sup> In response to this public health crisis, Congress issued an initial nationwide eviction moratorium in April 2020,<sup>2</sup> and the CDC has issued several moratorium extensions. These moratoria applied to evictions for non-payment of rent. However, on August 26, 2021, the U.S. Supreme Court invalidated the most recent CDC eviction moratorium extension, eliminating vital protections that have kept millions of renters housed.<sup>3</sup> While various state and local jurisdictions have adopted their own versions of COVID-related eviction protections, many have expired or are set to expire soon.

More than 3.5 million renter households nationwide are at risk of eviction from their homes due to the economic hardship brought on by the pandemic, and many of these households facing eviction include older renters. According to the most recent U.S. Census Household Pulse Survey, 40% of older renter households reported that they were “very likely” or “somewhat likely” to face eviction in the next two months.<sup>4</sup> Older Black and older Latino renters also make up a disproportionate share of older renters behind in their rental payments.<sup>5</sup>

## Resources to Prevent Evictions of Older Renters

***Help for older renters is here!*** Congress has sent the states, local entities, and tribal authorities an unprecedented amount of money—more than \$46 billion—for the Emergency Rental Assistance Program (ERAP) to help eligible renters with payments for back rent and utilities. State and local programs are distributing billions of dollars in rental and utility assistance to help renters stay housed during the pandemic and to help renters and landlords make

ends meet. [You can find your local ERAP program by clicking here for the U.S. Treasury Department's directory of state, tribal, and local rental assistance programs.](#) The National Low-Income Housing Coalition also has a [State and Local Rental Assistance Directory](#) of 495 programs distributing ERAP funds to keep tenants stably housed.

Renters are eligible for ERAP if they meet these four requirements:

- Household income below 80% of Area Median Income (AMI), but programs should prioritize tenants below 50% of AMI;<sup>6</sup>
- Household is obligated to pay rent on a residential dwelling, including:
  - » Manufactured home in mobile home park;
  - » Tenants in subsidized housing; and
  - » SRO's, and in some states, residents of board and care facilities.
- At least one member of the household qualified for unemployment, had reduced income, incurred significant costs, **or experienced other COVID-related financial hardship** (see below); and
- Can demonstrate a risk of homelessness or housing instability.<sup>7</sup>

## PRACTICE TIP

ERAP assistance is available even if you are not facing eviction. You only need to be behind in your rental or utility payments.

State and local programs have discretion to require landlords to waive fees; forgive some percentage of the back rent; condition funds on providing certain tenant protections, such as not evicting the tenant for non-payment for a certain time period; or prioritize lower-income and/or more vulnerable tenants, such as older adults.

## What Types of Help Can Eligible Households Receive?

ERAP funds are available to cover rent, utilities, and home energy costs, and other housing expenses incurred after March 13, 2020. There is a maximum of 18 months of benefits that can be paid for. It can include both arrears and, at the discretion of the local agency distributing funds, prospective payments. Tenants who received payments under the first ERA Program may still receive payments up to the 18-month benefit cap.

ERAP can also be used to pay for back rent owed on a place that is no longer occupied, relocation expenses such as rental security deposits, and rental application and screening fees if it will help the tenant be able to move to a new unit. Individuals who are currently experiencing homelessness can qualify for this assistance to move into a new unit.<sup>8</sup> Utilities that are eligible for payment include electricity, gas, water and sewer, trash removal, internet, and energy costs that are paid separately by the tenant.<sup>9</sup>

## People Living on a Fixed Income Can Qualify for ERAP Assistance

Many people incorrectly assume that people living on fixed incomes have not suffered financial hardship due to COVID, but this is often untrue. Older renters, people with disabilities, and others living on fixed incomes

can qualify for ERAP assistance by demonstrating that they have experienced significant costs or other financial hardship during or due to—directly or indirectly—the pandemic, which should be liberally interpreted.<sup>10</sup> Consider for example, the older renter who:

- Was working part-time pre-pandemic and was laid off, had their hours reduced, or had to leave their job;
- Lives in a household where someone else in the household experienced a loss of income or significant new expenses;
- Lost access to free food, meals, or free medical clinics; or
- Had additional expenses to get food/medication delivered or to avoid using public transit.

## PRACTICE TIP

Remember, there are no immigration restrictions on ERAP eligibility. Also, receiving ERAP assistance has no bearing on public charge determinations.

## ERAP Should Be Streamlined to Eliminate Barriers

Local ERAP programs are encouraged to eliminate documentation barriers for applicants, including allowing applicants to self-certify the accuracy of much of the required information. This is especially true for establishing COVID-related financial hardship, the risk of homelessness or housing instability, and irregular or zero income. [Here are some sample self-attestation forms that local programs have used.](#)

In most cases, the back rent is paid directly to the landlord. What if the landlord will not accept payment or will not fill out the paperwork? Whether the landlord is required to accept ERAP payments and stop an eviction action varies from state to state. If the landlord is refusing to accept ERAP payment, the case should be referred to your local legal services provider. If the landlord is not returning the needed paperwork to receive the funds, then programs are allowed to pay the back rent directly to the tenant, and the tenant can pay the landlord.

## Outreach and Engagement to Improve ERAP Access for Older Adults

What are the barriers that might deter or prevent older adults from applying for ERAP? These challenges include a lack of knowledge that the program exists or that they might qualify, the digital divide that makes applying more challenging, disability and language access barriers, and a sense of shame or stigma attached to asking for help. Here are a few ways to overcome these barriers:

- Routinely ask your clients about their housing stability/risk of eviction by incorporating standard screening questions during your intake. Here are some sample questions:
  - » Are you behind on your rent payments? How many months?
  - » Have you gotten any eviction threats or notices from your landlord that say you are late on rent (i.e., a 3 Day Notice to Pay Rent or Quit)?
  - » Have you gotten any papers that look like they are from the court?
  - » Are you behind or having trouble paying your water, sewer, light, or oil/gas bill?

- » Are you going without other necessities, like food or medicine, in order to pay rent?
- Identify and engage trusted community partners to conduct outreach at senior centers, meal sites, libraries, community health clinics, and foodbanks,
- Use plain, destigmatizing language to encourage submission of ERAP applications. For example, “Are you struggling to pay your rent? You’re not alone and it’s not your fault. Because of COVID, many renters in [your city/town] need a little extra help right now.”<sup>11</sup>
  - » Provide translated materials in languages spoken by older resident populations. For a list of languages and best practices, see [LEP.gov](http://LEP.gov).
- Do community-based outreach:
  - » Reach out to populations at high risk of eviction;
  - » Work closely with local housing advocates and legal aid organizations;
  - » Work with tenants to complete the declaration form for their landlord/court;
  - » Explain that there is no immigration status limitation, and no need for an eviction notice;
  - » Provide in-person assistance for people who are not able to navigate the site on their own; and
  - » Refer and provide warm hand-off to legal aid for legal representation.

Other state and federal protections to prevent the eviction of older tenants with disabilities are still in place, such as the Americans with Disabilities Act and the Fair Housing Act. These laws mandate that housing providers provide residents with reasonable accommodations. If the provider fails to do this, it may be considered housing discrimination. Reasonable accommodation protections can be powerful tools to prevent the eviction of older adult tenants with disabilities. This [NCLER Eviction Defense Chapter Summary](#), authored by attorneys from the National Housing Law Project, explains the steps an attorney can take to assist a tenant in requesting a reasonable accommodation.

As the number of evictions starts to rise, we can ensure that older tenants at risk of eviction take advantage of this crucial rental assistance to stay safely and stably housed.

## Additional Resources

- National Low-Income Housing Coalition’s [searchable database](#) to find an Emergency Rental Assistance Program near you
- [Consumer Financial Protection Bureau: Find Help with Rent and Utilities](#)
- [U.S. Department of the Treasury: Emergency Rental Assistance FAQs](#)
- [NCLER: Emergency Rental Assistance Programs & Other Tools to Prevent Evictions of Older Adult Tenants](#)
- [NCLER: Helping Older Tenants Remain at Home](#)
- [Find an Older Americans Act III-B Legal Assistance Provider: ElderCare Locator](#)
- [Find a Legal Services Corporation Legal Aid Provider](#)

# Endnotes

- 1 Centers for Disease Control and Prevention, Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, (February 3, 2021), <https://www.federalregister.gov/documents/2021/02/03/2021-02243/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19>.
- 2 See Congressional Research Service, CARES Act Eviction Moratorium, (April 7, 2020) available at: [crsreports.congress.gov/product/pdf/IN/IN11320](https://crsreports.congress.gov/product/pdf/IN/IN11320).
- 3 *Alabama Assn. of Realtors v. Department of Health and Human Services*, U.S. Supreme Court, August 26, 2021. 2021 WL 3783142.
- 4 U.S. Census Household Pulse Survey for most recent week data is available (August 18-30): [Week 36 Household Pulse Survey: August 18 – August 30 \(census.gov\)](https://www.census.gov/hhes/housing/eviction/pulse-survey), Housing Table 3b, “Likelihood of Having to Leave this House in Next Two Months Due to Eviction.” Results for renter households containing at least one individual age 55 or older.
- 5 Joint Center for Housing Studies of Harvard University, “Making Rent in the Pandemic: How are Older Adults Faring?” August 5, 2020. <https://www.jchs.harvard.edu/blog/older-adult-households-and-the-economic-impacts-of-the-pandemic>.
- 6 Your local rental assistance program will have the Area Median Income (AMI) guidelines for your region. You can also find the 2021 AMI limits at: [huduser.gov/portal/datasets/il.html#2021\\_data](https://huduser.gov/portal/datasets/il.html#2021_data).
- 7 U.S. Treasury Department, Revised Emergency Rental Assistance FAQ, August 25, 2021: <https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf>. “Such a demonstration may include (i) a past due utility or rent notice or eviction notice, (ii) unsafe or unhealthy living conditions (which may include overcrowding), or (iii) any other evidence of risk. . .” which can be self-certified.
- 8 See National Low-Income Housing Coalition, Frequently Asked Questions: Treasury’s Emergency Rental Assistance (ERA) Program, August 2021. [https://nlihc.org/sites/default/files/FAQs\\_Emergency-Rental-Assistance.pdf](https://nlihc.org/sites/default/files/FAQs_Emergency-Rental-Assistance.pdf).
- 9 U.S. Treasury Department, Revised Emergency Rental Assistance FAQ, August 25, 2021: <https://home.treasury.gov/system/files/136/ERA-FAQ-8-25-2021.pdf>.
- 10 *Id.*
- 11 The People Lab, Berkeley School of Public Policy, University of California, Berkeley. “Reducing Stigma to Improve Take-up of Rental Assistance,” 2021. [https://peoplelab.berkeley.edu/wp-content/uploads/2021/03/Rental-Assistance-Policy-Brief-7\\_22\\_21.pdf](https://peoplelab.berkeley.edu/wp-content/uploads/2021/03/Rental-Assistance-Policy-Brief-7_22_21.pdf). This recent study by the People Lab found that using de-stigmatizing language to inform and encourage applicants increased participation significantly, and had a particularly large impact on submitted applications for Black and Latino/a renters.