

## **Introduction**

### **ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN**

#### **AUTHORITIES FOR POLICIES IN THE MODEL ADMINISTRATIVE PLAN**

The authority for PHA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by HUD. State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

#### **HUD**

HUD provides the primary source of PHA policy through federal regulations, HUD notices, and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

#### **State Law**

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

#### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

### **RESOURCES CITED IN THE MODEL ADMINISTRATIVE PLAN**

The model administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the model administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the model administrative plan or that may be helpful to you.

## HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the model policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the model policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: *HCV GB*, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: *New HCV GB, Payment Standards*, p. 11).

## Abbreviations

Throughout the model administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the model administrative plan.

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
New HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), Various dates of release
HUD-50058 IB	HUD-50058 Instruction Booklet
RHIIP FAQs	Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions.
VG	PIH Notice 2004-01 Verification Guidance, March 9, 2004.
HB 4350.3	Occupancy Requirements of Subsidized Multifamily Housing Programs

## Resources and Where to Find Them

Following is a list of resources helpful to the PHA or referenced in the model administrative plan, and the online location of each.

Document and Location
Code of Federal Regulations <a href="https://www.ecfr.gov/">https://www.ecfr.gov/</a>
Earned Income Disregard FAQ <a href="https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid">https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid</a>

<p>Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule  <a href="http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf">http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf</a></p>
<p>Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data  <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a></p>
<p>Executive Order 11063  <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a></p>
<p>Federal Register  <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a></p>
<p>Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters  <a href="https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook">https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook</a></p>
<p>HUD-50058 Instruction Booklet  <a href="https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF">https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</a></p>
<p>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004  <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a></p>
<p>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007  <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a></p>
<p>Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice  <a href="https://www.hud.gov/sites/documents/DOC_8993.PDF">https://www.hud.gov/sites/documents/DOC_8993.PDF</a></p>
<p>Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System  <a href="https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF">https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</a></p>
<p>Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System’s Identity Verification Report  <a href="https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf">https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf</a></p>
<p>OMB Circular A-133  <a href="https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf">https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf</a></p>
<p>Project-Based Voucher Program; Final Rule  <a href="http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf">http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf</a></p>
<p>VAWA Final Rule  <a href="http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf">http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf</a></p>

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks and other HUD resources may be found at the HUD Clips website:  
[https://www.hud.gov/program\\_offices/administration/hudclips](https://www.hud.gov/program_offices/administration/hudclips).

The new HCV Guidebook may be found at:

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/guidebook](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook)



**ADMINISTRATIVE PLAN**

**FOR PRINCE WILLIAM COUNTY**

**HOUSING CHOICE VOUCHER PROGRAM**

Approved by the Executive Committee Housing Board: January 26, 2023



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# CHAPTER 1

## OVERVIEW OF THE PROGRAM AND PLAN

### INTRODUCTION

The public housing agency (PHA) receives its funding for the Housing Choice Voucher (HCV) program from the Department of Housing and Urban Development. The PHA is not a federal department or agency. A PHA is a governmental or public body, created and authorized by state law to develop and operate housing and housing programs for low-income families. The PHA enters into an Annual Contributions Contract with HUD to administer the program requirements on behalf of HUD. The PHA must ensure compliance with federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter contains information about the PHA and its programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

Part I: The Public Housing Agency (PHA). This part includes a description of the PHA, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the Housing Choice Voucher program operation, roles and responsibilities, and partnerships.

Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.

# **CHAPTER 1**

## **PART I: THE PHA**

### **1-I.A. OVERVIEW**

This part explains the origin of the PHA's creation and authorization, the general structure of the organization, and the relationship between the PHA Board and staff.

## CHAPTER 1

### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The Section 8 tenant-based Housing Choice Voucher (HCV) assistance program is funded by the federal government and administered by Prince William County Office of Housing and Community Development (OHCD) for the jurisdiction of the Prince William County Virginia. The OHCD is the “PHA” for Prince William County.

The officials of Prince William County Housing Board are known as board members or, collectively, as the board. The Housing Board shall be comprised of eight (8) members to be appointed by the Board of County Supervisors and six (6) other members to be appointed from nominations from Commission for Aging, Committee for Person with Disabilities, Community Services Board, Continuum of Care Network, Social Services Board, and Resident of Housing Choice Voucher Program upon consideration recommendation by OHCD Director.

The Housing Board establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission. The board members are responsible for preserving and expanding the agency’s resources and assuring the agency’s continued viability.

Formal actions of the PHA are taken through written resolutions, adopted by the members of board and entered into the official records of the Prince William County Housing Board.

The OHCD Director is directly responsible for carrying out the policies established by the Housing Board and is delegated the responsibility for hiring, training and supervising the PHA staff in order to manage the day-to-day operations of the PHA. The OHCD Director is responsible for ensuring compliance with federal and state laws and directives for the programs managed. In addition, duties include budgeting and financial planning for the agency.

In this plan the PHA hereafter will be referred to as the “OHCD” (Prince William County Office of Housing and Community Development).

## CHAPTER 1

### 1-I.C. PHA MISSION

The purpose of a mission statement is to communicate the purpose of the agency to people inside and outside of the agency. It provides guiding direction for developing strategy, defining critical success factors, searching out key opportunities, making resource allocation choices, satisfying clients and stakeholders, and making decisions.

#### OHCD MISSION STATEMENT

The mission of the OHCD is to initiate and provide opportunities for Prince William County residents to live in safe, affordable housing and to help develop, preserve and revitalize communities through fiscal responsible and open process.



## CHAPTER 1

### 1-I.D. THE PHA'S PROGRAMS

The following programs are included under this administrative plan:

#### OHCD Policy

OHCD's Administrative Plan is applicable to the operation of the Housing Choice Voucher and the Veterans Administration Supportive Housing (VASH) Program.

## CHAPTER 1

### 1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, the PHA is committed to providing excellent service to HCV program participants, owners, and to the community. The PHA's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other human service needs.
- Promote fair housing and the equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program, which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and a high level of commitment to our employees and their development.

The PHA will make every effort to keep program participants informed of HCV program rules and regulations, and to advise participants of how the program rules affect them.

## CHAPTER 1

### PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

#### 1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

The intent of this section is to provide the public and staff with information related to the overall operation of the program. There have been many changes to the program since its inception in 1974 and a brief history of the program will assist the reader to better understand the program.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing developments for low-income residents.

The Housing and Community Development (HCD) Act of 1974 created a new federally assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing.

Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality (“housing quality standards”) and was within certain HUD-established rent limitations (“fair market rents”), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was generally set at 30 percent of the family’s adjusted income, with the remainder of the rent paid by the program.

Another unique feature of the Certificate program was that the rental assistance remained with the eligible family, if the family chose to move to another privately-owned rental unit that met program requirements (in contrast to the public housing program where the rental assistance remains with the unit, should the family decide to move). Consequently, the Certificate program was characterized as tenant-based assistance, rather than unit-based assistance.

The Housing and Community Development (HCD) Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher program. The Voucher program was very similar to the Certificate program in that eligible families were able to select housing in the private rental market and receive assistance in that housing unit.

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, but there was no fair market rent limitation on rent. In addition, family contribution to rent was not set at a limit of 30 percent of adjusted income. Consequently, depending on the actual rental cost of the unit selected, a family might pay more or less than 30 percent of their adjusted income for rent.

From 1987 through 1999, public housing agencies managed both the Certificate and Voucher tenant-based assistance programs, with separate rules and requirements for each. From 1994

## CHAPTER 1

through 1998, HUD published a series of new rules, known as “conforming” rules, to more closely combine and align the two similar housing programs, to the extent permitted by the law.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program.

The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

The transition of assistance from the Certificate and Voucher programs to the new HCV program began in October 1999. By October 2001, all families receiving tenant-based assistance were converted to the HCV program.

## CHAPTER 1

### 1-II.B. HCV PROGRAM BASICS

The purpose of the HCV program is to provide rental assistance to eligible families. The U.S. Department of Housing and Urban Development determines the rules and regulations of the HCV program. The PHA is afforded choices in the operation of the program, which are included in the PHA's administrative plan, a document approved by the board of the PHA.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA's jurisdiction and may be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, the PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible, and the housing unit continues to qualify under the program.

## CHAPTER 1

### 1-II.C. THE HCV PARTNERSHIPS

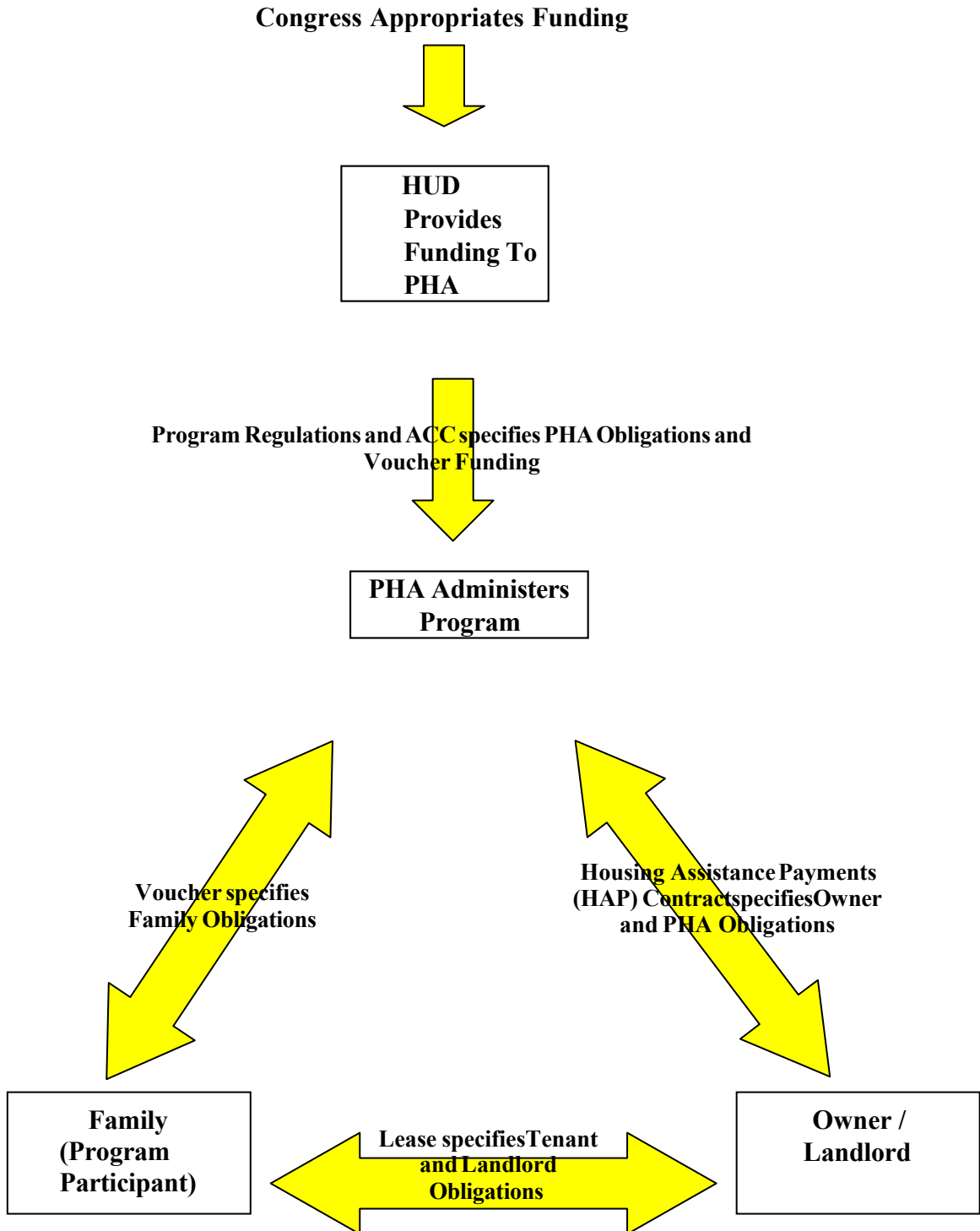
To administer the HCV program, the PHA enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). The PHA also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, the PHA, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the program.

The chart on the following page illustrates key aspects of these relationships.

# CHAPTER 1

## The HCV Relationships:



## CHAPTER 1

### What Does HUD Do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices and other guidance to implement HCV housing program legislation passed by Congress;
- Allocate HCV program funds to PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

### What Does OHCD Do?

OHCD administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicant to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue vouchers to eligible families and provide information on how to lease a unit;
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration;
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state and local laws.



## CHAPTER 1

### What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract executed with the PHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

### What Does the Family Do?

The family has the following responsibilities:

- Provide the PHA with complete and accurate information as determined by the PHA to be necessary for administration of the program;
- Make their best and most timely efforts to locate qualified and suitable housing;
- Attend all appointments scheduled by the PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or terminating the lease;

## CHAPTER 1

- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

## CHAPTER 1

### 1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 984: Section 8 and Public Housing Family Self-Sufficiency (FSS) Program
- 24 CFR Part 985: The Section Eight Management Assessment Plan (SEMAP)

## CHAPTER 1

### PART III: THE HCV ADMINISTRATIVE PLAN

#### 1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

The administrative plan is required by HUD. The purpose of the administrative plan is to establish policies for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the PHA's agency plan. This administrative plan is a supporting document to the PHA agency plan and is available for public review as required by CFR 24 Part 903.

This administrative plan is set forth to define the PHA's local policies for operation of the housing programs in accordance with federal laws and regulations. All issues related to the HCV Program not addressed in this document are governed by such federal regulations, HUD handbooks and guidebooks, notices and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD approved applications for program funding.

The PHA is responsible for complying with all changes in HUD regulations pertaining to the HCV program. If such changes conflict with this plan, HUD regulations will have precedence.

Administration of the HCV program and the functions and responsibilities of PHA staff shall be in compliance with the PHA's personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations.

## CHAPTER 1

### 1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follows:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA for a special purpose (e.g., desegregation), including funding for specified families or a specified category of families (Chapter 4);
- Occupancy policies, including definition of what group of persons may qualify as a 'family', definition of when a family is considered to be 'continuously assisted'; standards for denying admission or terminating assistance based on criminal activity or alcohol abuse in accordance with 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning special housing types in the program (e.g., use of shared housing) (Chapter 15);

## CHAPTER 1

- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the board of commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).

### **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides a PHA with a "safe harbor." HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies. If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, but PHAs should carefully think through those decisions.

## CHAPTER 1

### 1-III.C. ORGANIZATION OF THE PLAN

The plan is organized to provide information to users in particular areas of operation.

## CHAPTER 1

### 1-III.D. UPDATING AND REVISING THE PLAN

The PHA will revise this administrative plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the Prince William County Housing Board, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

#### OHCD Policy

OHCD will review and update the plan as needed, to reflect changes in regulations, OHCD operations, or when needed to ensure staff consistency in operation.



# CHAPTER 1

## CHAPTER 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

This chapter explains the laws and HUD regulations requiring the PHA to affirmatively further civil rights and fair housing in all federally assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA's Housing Choice Voucher (HCV) operations.

This chapter describes HUD regulations and the PHA policies and procedures related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of OHCD regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the Housing Choice Voucher Program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of OHCD to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

## CHAPTER 2

### PART I: NONDISCRIMINATION

#### 2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 11063 and 13988
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, Final Rule, published in the *Federal Register* February 3, 2012

When more than one civil rights law applies to a situation, the laws will be read and applied together.

Any applicable state laws or local ordinances and any legislation protecting individual rights of participants, applicants, or staff that may subsequently be enacted will also apply.

#### OHCD Policy

In addition to the rules and regulations listed above, the PHA will fully comply with the following state regulations:

Code of Virginia, Fair Housing, Unlawful Discriminatory Housing Practices (36-96.3.B.)  
It is unlawful to refuse to make reasonable accommodations in rules, practices, policies or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

## CHAPTER 2

### 2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as OHCD policies, can prohibit discrimination based on other factors.

The PHA shall not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called “protected classes”).

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12, [Executive Order 13988](#)].

#### OHCD Policy

OHCD does not identify any additional protected classes.

The PHA will not use any factors of race, color, sex, religion, familial status, age, disability, national origin, marital status, gender identity or sexual orientation to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the Housing Choice Voucher Program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Subject anyone to sexual harassment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

## CHAPTER 2

### **Providing Information to Families and Owners**

The PHA must take steps to ensure that families and owners are aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

### **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA, a PHA Agent, or an owner, the family should inform the PHA. The PHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Upon receipt of a housing discrimination complaint, the PHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices and corrective actions [Notice PIH-2014-20]

#### OHCD Policy

Applicants or participants who believe that they have been subject to unlawful discrimination may notify OHCD in writing. The OHCD will strongly encourage them to submit their request in writing but will accept an oral complaint.

OHCD will attempt to remedy discrimination complaints made against OHCD.

OHCD will provide the complainant with information on how to submit their complaint to both the Prince William County Human Rights Commission and HUD's Office of Fair Housing and Equal Opportunity (FHEO). Employees of OHCD managing or administering any of its subsidized housing programs are bound by a Code of Ethics. The Code stipulates the behavior of all such employees and consequences if they fail to comply with these requirements.

## CHAPTER 2

### PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES

#### 2-II.A. OVERVIEW

One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

The PHA is committed to making persons with disabilities aware of their right to request a reasonable accommodation in a housing program's rule, policies, practices or services, when such an accommodation/modification may be necessary in order for a person to comply with the requirements of the program and have an equal opportunity within the program to use and enjoy his/her unit and its associated premises.

The PHA must ensure that persons with disabilities have full access to the PHA's programs and services (24 CFR Parts 1, 8 and 100). This responsibility begins with the first contact by an interested family and continues through every aspect of the HCV program.

#### OHCD Policy

OHCD will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, re-examination documents, and notices of adverse action by the OHCD, by including the following language:

*If you or a member of your household is a person with a disability and require a reasonable accommodation in order to participate in OHCD's affordable housing program(s) or services, please submit your request to your Housing Program Specialist. OHCD prefers that your request be submitted in writing to better establish a record of the request; however, if you are unable to submit a written request for a reasonable accommodation, you may make your request by calling your Housing Program Specialist at the phone number provided to you.*

OHCD will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

## CHAPTER 2

### 2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial or an administrative burden" for the PHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

#### Types of Reasonable Accommodations

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with the PHA staff

#### OHCD Policy

OHCD will consider, among others, these additional types of reasonable accommodations:

- Extra bedroom for housing medical equipment.
- Live in Aides
- Separate bedrooms for individual medical problems
- Renting from a prohibited relative
- Utility allowance higher than approved utility allowance from schedule

## CHAPTER 2

### 2-II.C. REQUEST FOR AN ACCOMMODATION

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

The family must explain what type of accommodation is needed to provide the person with the disability full access to the PHA's programs and services.

If the need for the accommodation is not readily apparent or known to the PHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

#### OHCD Policy

OHCD will encourage the family to make the request for reasonable accommodation in writing using a Request for Reasonable Accommodation form. However, OHCD will consider the request for accommodation any time the family indicates that an accommodation is needed whether or not a formal written or verbal request is submitted, or the word "accommodation" is used.



## CHAPTER 2

### 2-II.D. VERIFICATION OF DISABILITY

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing an accommodation, the PHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to the PHA's programs and services.

If a person's disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to the PHA, the PHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. OHCD will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of the documents and/or return originals to the sender. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

## CHAPTER 2

For the purpose of reasonable accommodation, disability is defined as:

- A physical or mental impairment which substantially limits one or more of a person's major life activities; or
- A record of having such an impairment; or
- Is regarded as having such an impairment (does not include current, illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substance Act, 21 U.S.C. 802).

## CHAPTER 2

### **2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION** [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act; Notice PIH 2010-26].

The PHA must approve a request for an accommodation if the following three conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial or an administrative burden on the PHA, or fundamentally alter the nature of the PHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, the PHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that the PHA may verify the need for the requested accommodation.

#### OHCD Policy

After a request for an accommodation is presented, OHCD will respond, in writing, within 30 business days, including any request by the OHCD for additional information or verification. Before a final decision is issued in writing, the OHCD may discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

**If OHCD denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PHA's decision through an Informal Review (if applicable) or Informal Hearing (see Chapter 16).**

For applicants, the effective date of the approved Reasonable Accommodation will be effective on the date all completed required documents were received by OHCD. For participants, the effective date of the approved Reasonable Accommodation will be the first of the month following the date all completed required documents were received by OHCD.

If OHCD denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of OHCD's operations), OHCD will explain the reasons in writing. If the OHCD believes

## CHAPTER 2

that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the OHCD will notify the family in writing, of its determination within 30 business days from the date of the most recent discussion or communication with the family.

The use of additional bedrooms must be verified at each annual inspection for the duration of the accommodation being provided. See Chapter 8, Section 8-I.F.

Reasonable accommodations that are not permanently granted must be requested on an annual basis.

If the client believes that they have been subjected to a discriminatory housing practice, including a OHCD's wrongful denial of a request for reasonable accommodation, the client may file a complaint with the Department of Housing & Urban Development (HUD) by calling the Housing Discrimination Hotline at 1.800.669.9777. Additional information regarding filing a complaint can be found at <http://www.hud.gov> .

An applicant with a disability has up to six months from the date of application denial to request a reasonable accommodation if their name has been removed from the waiting list due to failure to respond to a OHCD notice.

## CHAPTER 2

### **2-II.F. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS**

HUD regulations require the PHA to ensure that persons with disabilities related to hearing and vision have reasonable access to the PHA's programs and services [24 CFR 8.6].

At the initial point of contact with each applicant, the PHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

#### OHCD Policy

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display /teletype) communication will be available with five (5) business days advance notice.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with OHCD staff, one-on-one assistance will be provided, with five (5) business days advance notice.

Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having an adult third party representative (friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

## CHAPTER 2

### 2-II.G. PHYSICAL ACCESSIBILITY

The PHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

- This Plan describes the key policies that govern OHCD's responsibilities with regard to physical accessibility.
- Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to non-discrimination and accessibility in federally-funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

When issuing a voucher to a family that includes an individual with disabilities, the PHA will include a current list of available accessible units known to the PHA and will assist the family in locating an available accessible unit, if necessary.

In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

## CHAPTER 2

### 2-II.H. DENIAL OR TERMINATION OF ASSISTANCE

A PHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant's assistance is terminated, the notice of termination must inform them of the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome/alleviate the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation.

## CHAPTER 2

### PART III: IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

#### 2-III.A. OVERVIEW

Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register*.

The PHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.



## CHAPTER 2

### 2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

#### OHCD Policy

The OHCD will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the OHCD will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by the OHCD. The OHCD, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the OHCD will not rely on the minor to serve as the interpreter.

The OHCD will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. “Reasonable steps” may not be reasonable where the costs imposed substantially exceed the benefits.

Where feasible and possible, OHCD will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

## CHAPTER 2

### 2-III.C. WRITTEN TRANSLATION

Translation is the replacement of a written text from one language into an equivalent written text in another language.

#### OHCD Policy

In order to comply with written-translation obligations, the OHCD will take the following steps:

The OHCD will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 5 percent trigger, the PHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## CHAPTER 2

### 2-III.D. IMPLEMENTATION PLAN

After completing the four-factor analysis and deciding what language assistance services are appropriate, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If the PHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to the PHA's Housing Choice Voucher program and services.

#### OHCD Policy

If it is determined that OHCD serves very few LEP persons, and that OHCD has very limited resources, OHCD will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. If OHCD determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

## CHAPTER 2

### EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

A person with a disability, as defined under federal civil rights laws, is any person who:

- Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
- Has a record of such impairment, or
- Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

- Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term “physical or mental impairment” includes, but is not limited to: such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

“Major life activities” includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

“Has a record of such impairment” means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities. “Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as OHCD) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

The definition of a person with disabilities does not include:

- Current illegal drug users
- People whose alcohol use interferes with the rights of others
- Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program

## CHAPTER 2

The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the \$400 elderly/disabled household deduction, the \$480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

## CHAPTER 2

## CHAPTER 3

### ELIGIBILITY

#### INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the HCV program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA provided consent forms.
  - Not currently be receiving a duplicative subsidy
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and OHCD definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.

## **CHAPTER 3**

### **PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS**

#### **3-I.A. OVERVIEW**

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit. This part provides information that is needed to correctly identify family and household members, and to apply HUD's eligibility rules.



## CHAPTER 3

### 3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c), Notice PIH 2014-20] ]

The terms *family* and *household* have different meanings in the HCV program.

#### **Family**

To be eligible for assistance, an applicant must qualify as a family. *Family* as defined by HUD includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.

*Sexual Orientation* means homosexuality, heterosexuality, or bisexuality.

#### OHCD Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Each family must identify the individuals to be included in the family at the time of application and must notify OHCD if the family's composition changes.

#### **Household**

*Household* is a broader term that includes additional people who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

## CHAPTER 3

### 3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF PARTICIPANT FAMILY

#### Family Break-up [24 CFR 982.315; Notice PIH 2017-08]

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, and stalking, see Chapter 16-IX.D.)
- In accordance with Notice PIH 2017-08, for HUD-Veterans Affairs Supportive Housing, (HUD-VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD-VASH voucher, which must be issued to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, the PHA is bound by the court's determination of which family members continue to receive assistance.

#### OHCD Policy

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

In the absence of a judicial decision, or an agreement among the original family members, OHCD will determine which family will retain their placement on the waiting list OR continue to receive assistance. In making its determination, the PHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; 4) any possible risks to family members as a result of criminal activity, and (5) the recommendations of social service professionals; and (6) the veteran status of any family member receiving assistance with a VASH voucher.

## CHAPTER 3

### **Remaining Member of a Participant Family [24 CFR 5.403]**

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a participant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

## CHAPTER 3

### **3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]**

*Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a co-head or spouse.

#### OHCD Policy

The family may designate any qualified family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

## CHAPTER 3

### 3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or co-head, but not both [HUD-50058 IB, p. 13].

*Spouse* means the marriage partner of the head of household.

#### OHCD Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A *co-head* is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head.

#### OHCD Policy

Minors who are emancipated under state law may be designated as a co-head.

*Other adult* means a family member, other than the head, spouse, or co-head, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

## CHAPTER 3

### 3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a dependent allowance as described in Chapter 6.

### Joint Custody of Dependents

#### OHCD Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OHCD will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

## CHAPTER 3

### **3-I.G. FULL-TIME STUDENT [24 CFR 5.603; HCV GB, p. 5-29]**

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because: (1) each family member that is an FTS, other than the head, spouse, or co-head, qualifies the family for a dependent allowance, and (2) the earned income of such an FTS is treated differently from the income of other family members.

## CHAPTER 3

### 3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

[24 CFR 5.100 and 5.403]

#### **Elderly Persons**

An *elderly person* is a person who is at least 62 years of age.

#### **Near-Elderly Persons**

A *near-elderly person* is a person who is 50-61 years of age.

#### **Elderly Family**

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance as described in Chapter 6.



## CHAPTER 3

### 3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403][FR Notice 02/03/12]

#### **Persons with Disabilities**

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

#### **Disabled Family**

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse in accordance with policies found in Part III of this chapter, or from terminating assistance in accordance with the policies in Chapter 12.

## CHAPTER 3

### 3-I.J. GUESTS [24 CFR 5.100]

A *guest* is a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

#### OHCD Policy

A guest can remain in the assisted unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the assisted household more than 50 percent of the time, are not subject to the time limitations of guests as described above.

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last 40 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

When OHCD is determining whether a person should be considered a guest or a household member, the following items apply:

- Statements from neighbors, the landlord, Department of Social Services workers, copies of police reports, or other documentation would be considered in making the determination that a person is residing in the unit.
- Absence of evidence of any other address is considered verification that the visitor/guest is a member of the household. Further, use of the unit address as the visitor/guest's current residence for any purpose not explicitly temporary, i.e. voter's registration, driver's license, vehicle registrations, etc., is construed as evidence of permanent residence.
- The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual is considered an unauthorized member of the household and the rental assistance must be terminated.

In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor is considered an eligible visitor and not a family member. Such individual must not be counted as a member of the family for voucher size determination, and no dependent allowance is awarded.

All changes in family composition, including absences, must be reported in writing within 10 business days to the HA.

Additions to the family composition will only be approved if the participant makes a written request and receives written approval from the PHA for the individual to be added to the household.

## CHAPTER 3

### 3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

*Foster adults* are usually persons with disabilities, unrelated to the participant family, who are unable to live alone [24 CFR 5.609].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

#### OHCD Policy

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

## CHAPTER 3

### 3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

#### Definitions of Temporarily and Permanently Absent

##### OHCD Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Participants must notify OHCD in writing at least 10 business days before leaving their unit if they are going to be absent from the unit for more than three consecutive weeks.

##### 1. Absences in Excess of Three Weeks, but less than Three Months

The family must provide written notice to OHCD that the unit will be temporarily vacant. The notice must include the beginning and ending dates of the vacancy. OHCD approval is not required for the family to temporarily vacate the unit for up to three months.

##### 2. Absences between Three and Six Months

The family must provide written notice to the owner and OHCD that the unit will be temporarily vacant. The notice must include the beginning and ending dates of the vacancy. Written approval is required for temporary absences in excess of three months. Each circumstance will be individually evaluated and authorized by OHCD.

Examples of circumstances where approval may be appropriate include, but are not limited to, the following:

- Hospitalization;
- Temporary placement in a nursing home or similar facility;
- Temporary placement of child(ren) in a foster care situation;
- Family emergency such as serious illness, or death;
- Incarceration (for non-drug related criminal activity);
- Other individual circumstances.

A person with a disability may request a time extension as an accommodation, provided the extension does not go beyond the HUD-allowed 180 consecutive calendar day limit.

## CHAPTER 3

### ***Verification of Permanent Absence of a Family Member***

If the family reports an adult member who was formerly a member of the household permanently absent, the following are considered verifications of absence:

- Proof of death;
- Court papers when a husband or wife institutes divorce action or legal separation;
- Proof of another home address, such as listed on utility bills, canceled rent checks, driver's license, or lease or rental agreement, if available;
- Statements from other agencies such as Department of Social Services, or a written statement from the owner or manager that the adult family member is no longer living at that location;
- If the adult family member is incarcerated, a document from the Court or correctional facility stating how long they will be incarcerated is required;
- Protection/ Restraining Order obtained by one family member against another;

If the head of household is the absent member, OHCD will issue the voucher to the spouse or co-head.

### ***Absences Due to Death***

HAP payments must stop at the end of the month that the death occurs for a single member household and single member household with a live-in aide.

### ***Absence Due to Incarceration***

Incarceration for more than 90 consecutive days defines a sole member, or any household member, as permanently absent from the unit.

### ***Absence Due to Military Service***

Regulations provide support for families and dependents of military personnel (including reservists and guardsmen) called to active duty during designated military operations.

Support can include, but is not limited to, the following:

- Allowing a guardian to move into the unit temporarily to care for the dependents the military person leaves in the unit. The guardian's income is exempt;
- Consideration of whether to allow delayed repayments;
- Allowing family absences from the unit with continued Housing Assistance Payments (HAP) to exceed normal guidelines because a member of the assisted family has been called to active duty as a result of designated military operations.

## CHAPTER 3

### **Absent Students**

#### OHCD Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to OHCD indicating that the student has established a separate household, or the family declares that the student has established a separate household.

### **Absences Due to Placement in Foster Care [24 CFR 5.403]**

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

#### OHCD Policy

If a child has been placed in foster care, OHCD will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

### **Absent Head, Spouse, or Co-head**

#### OHCD Policy

An employed head, spouse, or co-head absent from the unit (a) more than 180 consecutive days or (b) more than half their time, due to employment (e.g. deployed in active military duty or employed in another state), will continue to be considered a family member.

### **Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22]**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

#### OHCD Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

OHCD will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and OHCD will consider, any additional documentation or evidence for that person not to be considered a family member. As long as the family member is considered temporarily absent, his/her income will be counted.

## CHAPTER 3

### Return of Permanently Absent Family Members

#### OHCD Policy

The family must request OHCD approval for the return of any adult family members that OHCD previously determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

A returning adult family member may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according to 24 CFR 982.401.

## CHAPTER 3

### 3-I.M. LIVE-IN AIDE [24 CFR 5.403]

A *Live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

OHCD must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by the family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations. [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

#### OHCD Policy

A family's request for a live-in aide must be made in writing. Once the request is made, the OHCD staff will verify the need for a live-in aide. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member and the length of time the live-in aide will be needed.

Within 30 calendar days of receiving a request for a live-in aide, including all required documentation related to the request, the OHCD will notify the family of its decision in writing.

In addition, the family and live-in aide will be required to submit a Living In Aide Affidavit stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The potential live in aide must provide a valid social security number and complete a release of information for a criminal background check.

The OHCD will only approve a particular person if he/she (1) meets HUDS's Citizenship or Eligible Immigration criteria defined in Chapter 3, Section 3.II.B; and (2) is 18 year of age or older.

For continued approval, the family must submit a new, written request at each annual reexamination unless a permanent approval for a live-in aide has been granted by OHCD.

OHCD will not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 982.316(b)]:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;



## CHAPTER 3

- The person commits drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to OHCD or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Families must report when the live in aide is no longer part of the household within 10 business days of the event. The family will be allowed 60 days to search for, select, and have OHCD approve a replacement live-in aide.

Live-in aides:

1. Are considered a member of the household for live-in aide purposes only and not a family member; and do not qualify as a remaining tenant.
2. Must utilize the rental unit as his or her sole residence during the time he or she is certified as the participant's live-in aide;
3. Need to comply with citizenship requirements.

The PHA shall document the following annually or when there is a change in live-in aides:

1. If the Live-in Aide was approved for one year, a new Request for Reasonable Accommodation must be submitted by the family and approved at the next annual reexamination.
2. If the Request for Reasonable Accommodation was approved on a permanent basis, OHCD will verify at annual reexamination that a Live-in Aide is identified as such.

Live-in aide family members and/or their minor children do not count as dependents. Additional bedrooms on the voucher are not granted for the live-in aide's family members.

A person who is currently a live-in aide can become a family member and be added to the family composition if they meet eligibility requirements.

At the annual HQS Inspection, the PHA must verify that the extra bedroom for the live-in aide is being utilized for that purpose.

## CHAPTER 3

### PART II: BASIC ELIGIBILITY CRITERIA

#### 3-II.A. INCOME ELIGIBILITY AND TARGETING

##### Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the housing choice voucher program. The income limits are published annually in the *Federal Register* and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

##### Definitions of the Income Limits [24 CFR 5.603(b)]

*Low-income family.* A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

*Very low-income family.* A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

*Extremely low-income family.* A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

##### Using Income Limits for Eligibility [24 CFR 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

- A *very low-income* family
- A *low-income* family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program [24 CFR 982.4]; **24 CFR 982.201(b)**

##### OHCD Policy

OHCD will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time, they were issued a voucher or selected from OHCD Waiting List.

## CHAPTER 3

HUD permits the PHA to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with the PHA plan and the consolidated plans for local governments within the PHA's jurisdiction.

### OHCD Policy

OHCD has not established any additional categories of eligible low-income families.

### **Using Income Limits for Targeting [24 CFR 982.201]**

At least 75 percent of the families admitted to OHCD's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

### OHCD Policy

At least 75% of the families admitted to OHCD's program during OHCD's fiscal year must be extremely low-income families and up to 25% may be very-low income.

## CHAPTER 3

### **3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]**

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with OHCD's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

#### **Declaration [24 CFR 5.508]**

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

#### ***U.S. Citizens and Nationals***

In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit OHCD to request additional documentation of their status, such as a passport.

##### OHCD Policy

Family members who declare citizenship or national status *will* be required to provide as documentation a United States passport, a United States birth certificate, or a Defense Department Form 214 (DD214), Certificate of Release or Discharge From Active Duty.

#### ***Eligible Noncitizens***

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with OHCD efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

## CHAPTER 3

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

### ***Ineligible Noncitizens***

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family member listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. OHCD is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

### **Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be pro-rated, and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures.

### **Ineligible Families [24 CFR 5.514(d), (e), and (f)]**

The PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to the PHA in accordance with program requirements [24 CFR 5.512(a)].

#### OHCD Policy

OHCD will not provide assistance to a family before the verification of eligible status for at least one family member.

When OHCD determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written denial notice within 10 business days of the determination.

## CHAPTER 3

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with OHCD. The informal hearing with OHCD may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

Informal hearing procedures are contained in Chapter 16.

### **Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**

For new occupants joining the assisted family, the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days [24 CFR 5.508(h)].

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

#### OHCD Policy

OHCD will verify the citizenship status of applicants at the time other eligibility factors are determined.

## CHAPTER 3

### 3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. A detailed discussion of acceptable documentation is provided in Chapter 7.

*Note:* These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

## CHAPTER 3

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230, HCV GB, p. 5-13]**

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD 52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].



## CHAPTER 3

### 3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06 and FR Notice 9/21/16 ]

Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from **their** parents in accordance with OHCD policy, the income of the student's parents will not be considered in determining the student's eligibility.

The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

#### Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, p. 18148].

#### *Dependent Child*

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in 24 CFR 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

#### *Independent Student*

##### OHCD Policy

OHCD will consider a student "independent" from **their** parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

1. The individual is of legal contract age under state law.

## CHAPTER 3

- The individual has established a household separate from **their** parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

- The individual is at least 24 years old by December 31 of the award year for which aid is sought.
  - The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care or ward of the court at any time when the individual was 13 years of age or older.
  - The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
  - The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
  - The individual is a graduate or professional student.
  - The individual is married.
  - The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
  - The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
    - ✓ A local educational agency homeless liaison
    - ✓ The Director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or designee of the Director
    - ✓ A financial aid administrator
  - The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
- The individual was not claimed as a dependent by **their** parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
  - The individual provides a certification of the amount of financial assistance that will be provided by **their** parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

OHCD will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

## CHAPTER 3

### ***Institution of Higher Education***

The PHA will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an *institution of higher education* (see Exhibit 3-2).

### ***Parents***

#### OHCD Policy

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

### ***Person with Disabilities***

The PHA will use the statutory definition under section 3(b)(3)(E) of the 1937 Act to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

### ***Veteran***

#### OHCD Policy

A *veteran* is a person who served in the active military, naval or air service and who was discharged or released from such service under conditions other than dishonorable.

### ***Venerable Youth***

#### OHCD Policy

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraph (b), (c), or (h), as adopted in Section II of FR Notice 9-21-16.

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- The individual has been verified during the school year in which the applicant is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness and self-supporting by:
  - ✓ A local educational agency homeless liaison
  - ✓ The Director of a program funded under subtitle B of title IV of the McKenny-Vento Homeless Assistance Act or a designed of the Director
  - ✓ A financial aid administrator

## CHAPTER 3

### **Determining Student Eligibility**

If a student is applying for assistance on **their** own, apart from **their** parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that: (1) the student is individually eligible for the program, (2) either the student is independent from **their** parents or the student's parents are income eligible for the program, and (3) the "family" with which the student is applying is collectively eligible for the program.

#### OHCD Policy

For any student who is subject to the 5.612 restrictions, OHCD will:

Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program

Determine whether the student is independent from **their** parents in accordance with the definition of *independent student* in this section

Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program

If OHCD determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, OHCD will send a notice of denial in accordance with the policies in Section 3-III.F, and the applicant family will have the right to request an informal review in accordance with the policies in Section 16-III.B.

### ***Determining Parental Income Eligibility***

#### OHCD Policy

For any student who is subject to the 5.612 restrictions and who does not satisfy the definition of *independent student* in this section, OHCD will determine the income eligibility of the student's parents as follows:

- If the student's parents are married and living together, OHCD will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, OHCD will obtain an income declaration and certification of income from that parent.
- If the student's parents are divorced or separated, OHCD will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of **their** parents and has not had contact with or does not know where to contact **their** other parent, OHCD will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. OHCD will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

## CHAPTER 3

In determining the income eligibility of the student's parents, OHCD will use the income limits for the jurisdiction in which the parents live.

## CHAPTER 3

### 3-II.F. EIV SYSTEM SEARCHES [Notice PIH 2018-18; EIV FAQs; EIV System Training 9/30/20]

#### Existing Tenant Search

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

#### OHCD Policy

The OHCD will contact the PHA, or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. The OHCD will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

#### **Debts Owed to PHAs and Terminations**

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

#### OHCD Policy

The PHA will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

The PHA will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

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### **Income and IVT [Income Validation Tool] Reports**

For each new admission, the PHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

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### PART III: DENIAL OF ASSISTANCE

#### 3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In this section, we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has a justified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4 s who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

#### **Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]**

Denial of assistance includes any of the following:

- Not placing the family's name on the waiting list
- Denying or withdrawing a voucher
- Not approving a request for tenancy or refusing to enter into a HAP contract
- Refusing to process a request for or to provide assistance under portability procedures



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### **Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]**

HUD rules prohibit denial of program assistance to the program based on any of the following criteria:

- Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction (See Chapter 10, Portability.)
- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock
- Whether the family includes children
- Whether a family decides to participate in a family self-sufficiency program
- Whether or not a qualified applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance. See Section 3-III.G.

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### 3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits, but does not require, the PHA to admit an otherwise-eligible family if the household member has completed PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

#### OHCD Policy

OHCD will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if OHCD is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by OHCD, or the person who committed the crime is no longer living in the household.

- The PHA determines that any household member is currently engaged in the use of illegal drugs.

#### OHCD Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous six (6) months unless the applicant/participant is currently enrolled in and fully compliant with treatment.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### OHCD Policy

In determining reasonable cause, OHCD will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. ~~A conviction will be given more weight than an arrest.~~ A record or records of arrest will not be used as the sole basis of determining reasonable cause. OHCD will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

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### 3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

HUD permits, but does not require, the PHA to deny assistance for the reasons discussed in this section.

#### **Criminal Activity [24 CFR 982.553]**

HUD requires the PHA to deny assistance if the PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the family would receive assistance, certain types of criminal activity.

##### OHCD Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past three years, the family will be denied assistance:

1. *Drug-related criminal activity*, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
2. *Violent criminal activity*, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100].
3. *Criminal activity* that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
4. *Criminal activity* that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of OHCD (including a OHCD employee or a OHCD contractor, subcontractor, or agent).

*Immediate vicinity* means within a two-mile radius of the premises.

Evidence of such criminal activity includes, but is not limited to:

- Any conviction for drug-related criminal activity within the past three years.
- Records of arrests for drug-related or violent criminal activity within the past three years, although a record or records of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
- ~~A conviction for drug-related or violent criminal activity will be given more weight than an arrest for such activity.~~

In making its decision to deny assistance, OHCD will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OHCD may, on a case-by-case basis, decide not to deny assistance.

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### Previous Behavior in Assisted Housing [24 CFR 982.552(c)]

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing.

PHA's are ~~no longer~~ permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

#### OHCD Policy

OHCD **will not** deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program, but the OHCD may deny the family's request to re-enter the FSS program based upon their failure to comply, without good cause, with their FSS contract of participation.

OHCD **will** deny assistance to an applicant family if:

The family does not provide information that OHCD or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to OHCD.

*Any* family member has been evicted from federally assisted housing in the last three years.

*Any* family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family owes rent or other amounts to *any* PHA in connection with the HCV, Certificate, Moderate Rehabilitation or public housing programs, unless the family repays the full amount of the debt prior to being selected from the waiting list.

If the family has not reimbursed any PHA for amounts the PHA or OHCD paid to an owner under a HAP contract for rent, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.

The family has breached the terms of a repayment agreement entered into with OHCD, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

**When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.**

**If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The**

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PHA will consider the information provided by the family prior to issuing a notice of denial.

A family member has engaged in or threatened violent or abusive behavior toward OHCD personnel.

*Abusive or violent behavior towards OHCD personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

The family does not provide information that OHCD or HUD determines is necessary in the administration of the program during the current eligibility process.

The family does not provide complete and true information to OHCD during the current eligibility process.

In making its decision to deny assistance, OHCD will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, OHCD may, on a case-by-case basis, decide not to deny assistance.

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### **3-III.D. SCREENING**

#### **Screening for Eligibility**

PHA's are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

#### OHCD Policy

OHCD will perform a criminal background check through local law enforcement for every adult household member. If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, OHCD will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

If a family is referred to the OHCD by the Department of Veterans Affairs (VA) for participation in the HUD-VASH program, OHCD will only determine the family's income eligibility and screen for lifetime sex-offender status (HUD-VASH Questions and Answers – Supplement to HUD-VASH Operating Requirements published in the Federal Register on May 6, 2008, and May 19, 2008, Department of Veterans Affairs VHA Handbook 1162.05).

If the VASH family is no longer receiving VA supportive services, the family must meet all screening criteria found in Section 3-111.D to receive a regular Housing Choice Voucher.

OHCD will perform a sex-offender background check through use of the Dru Sjodin National Sex Offender database to screen applicants for admission.

While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose.

PHA's are required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 982.553(a)(2)(i)].

Additionally, PHA's must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

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If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, OHCD must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission. [24 CFR 5.903(f) and 5.903(d)].

### OHCD Policy

The OHCD will notify the household and provide this information within ten (10) business days of the denial of determination.

### **Screening for Suitability as a Participant [24 CFR 982.307]**

The PHA has no liability or responsibility to the owner for the family's behavior or suitability for tenancy. The PHA has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable participant. The owner is responsible for screening and selection for tenancy is the responsibility of the owner.

### OHCD Policy

The owner is responsible for conducting additional screening to determine and applicant family's suitability for tenancy.

An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

HUD requires the PHA to provide prospective owners with the family's current and prior address (as shown in PHA records) and the name and address (if known) of the owner at the family's current and prior addresses. HUD permits OHCD to provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

The PHA may not disclose to the owner any confidential information provided to the PHA by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault or stalking except at the written request or with the written consent of the individual providing the documentation. [24 CFR 5.2007(a)(4)].

### OHCD Policy

OHCD will inform owners of their responsibility to screen prospective participants, and if requested, will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. OHCD will not provide any additional information to the owner, such as tenancy history, or criminal history. Required screenings must be performed during the initial eligibility review for all applicants (including portability) and for all active participants at the time of:

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- Annual re-examination;
- Move; or
- IR for an adult added to the household, or when a current family member turns 18.

Note: Live-In Aides are subject to the same screenings as other adult household members.



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### 3-III.E. CRITERIA FOR DECIDING TO DENY ASSISTANCE

#### Evidence [24 CFR 982.553(c)]

##### OHCD Policy

OHCD will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

#### Consideration of Circumstances [24 CFR 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandatory (see Section 3-III.B).

##### OHCD Policy

OHCD will consider the following factors prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property.

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act.

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest(s) will not be used as the basis for denial, an arrest may, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, OHCD may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. OHCD may also consider:

- ✓ Any statement made by witnesses, or the applicant not included in the police report
- ✓ Whether criminal charges were filed

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- ✓ Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
- ✓ Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

OHCD will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

### **Removal of a Family Member's Name from the Application [24 CFR 982.552(c)(2)(ii)]**

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration; the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family. [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

#### OHCD Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

After admission to the program, the family must present evidence of the former family member's current address upon OHCD request.

### **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, OHCD's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### OHCD Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, OHCD will determine whether the behavior is related to the stated disability. If so, upon the family's request, OHCD will determine whether admitting the family as a reasonable accommodation is appropriate. OHCD will

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only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

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### 3-III.F. NOTICE OF ELIGIBILITY OR DENIAL

If the PHA is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing as discussed in Chapter 5.

If the PHA determines that a family is not eligible for the program for any reason, the family must be notified promptly. The notice must describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

#### OHCD Policy

The family will be notified of a decision to deny assistance in writing within 10 business days of the determination.

If the PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)]. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements [24 CFR 982.553(d)].

#### OHCD Policy

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, OHCD will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information through the OHCD's informal review process. If the family does not contact OHCD to dispute the information within that 10-day period, OHCD will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B. Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking are contained in Section 3-III.G.

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### **3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING [24 CFR Part 5, Subpart L]**

The Violence against Women Act of 2013 (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibits PHAs from denying an applicant admission to the HCV program “on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant otherwise qualifies for assistance or admission”.

Definitions of key terms used in VAWA are provided in Chapter 16-IX, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

#### **Notification**

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification for (HUD-5382) at the time the applicant is denied.

#### OHCD Policy

OHCD acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g. a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under OHCD’s policies.

While OHCD is not required to identify whether adverse factors that resulted in the applicant’s denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform OHCD that their status as a victim is directly related to the grounds for the denial. OHCD will request that the applicant provide enough information to OHCD to allow OHCD to make an objective reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

OHCD will include in its notice of denial the VAWA information described in section 16-IX.C of this Plan as well as including a copy of the form HUD-5382. OHCD will request that an applicant wishing to claim protection under VAWA notify OHCD within 14-business days.

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### Documentation

#### *Victim Documentation [24 CFR 5.2007]*

##### OHCD Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, OHCD will request in writing that the applicant provide documentation supporting the claim in accordance with Chapter 16-IX.D.

#### *Perpetrator Documentation*

##### OHCD Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

1. A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit.
2. Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to **their** belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

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### EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

#### Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:  
Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*  
In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

#### **(A) In General**

The term “developmental disability” means a severe, chronic disability of an individual that:

- (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (ii) is manifested before the individual attains age 22;
- (iii) is likely to continue indefinitely;
- (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and
- (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

#### **(B) Infants and Young Children**

An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of

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subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes **their** ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

### **Individual with Handicaps [24 CFR 8.3]**

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

As used in this definition, the phrase:

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.



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(4) *Is regarded as having an impairment* means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

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### EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. 1001 and 1002]

#### Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplementary Guidance; Notice [Federal Register, April 10, 2006]

*Institution of Higher Education* shall have the meaning given this term in the Higher Education Act of 1965 in 20 U.S.C. 1001 and 1002.

#### *Definition of "Institution of Higher Education" From 20 U.S.C. 1001*

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" means an educational institution in any State that
- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
  - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
  - (3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
  - (4) Is a public or other nonprofit institution; and
  - (5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term "institution of higher education" also includes—
- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and
  - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students' persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

### *Definition of “Institution of Higher Education” From 20 U.S.C. 1002*

#### (a) Definition of institution of higher education for purposes of student assistance programs

- (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

- (A) A proprietary institution of higher education (as defined in subsection (b) of this section);

- (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and

- (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

#### (2) Institutions outside the United States

- (A) In general, for the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

- (i) In the case of a graduate medical school located outside the United States—

- (I)(aa) At least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

- (bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing

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score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) The institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

(I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary

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in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

- (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate degree or a postsecondary diploma, respectively; or
  - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or
  - (B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
- (5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
- (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of

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subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) Has been in existence for at least 2 years; and

(F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students’ persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

(1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and

(C) Has been in existence for at least 2 years.

(2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular student’s persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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## CHAPTER 4

### APPLICATIONS, WAITING LIST AND TENANT SELECTION

#### INTRODUCTION

When a family wishes to receive assistance, under the HCV program, the family must submit an application that provides the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and the PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or OHCD to receive preferential treatment. Funding earmarked exclusively for families with particular characteristics may also alter the order in which families are served.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that OHCD will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and the PHA policies for taking applications, managing the waiting list and selecting families for HCV assistance. The policies outlined in this chapter are organized into three sections, as follows:

Part I: The Application Process. This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how OHCD will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how OHCD's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process the PHA will use to keep the waiting list current.

Part III: Selection for HCV Assistance. This part describes the policies that guide the PHA in selecting families for HCV assistance as such assistance becomes available. It also specifies how the PHA will obtain information needed to make a final eligibility determination.



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### **PART I: THE APPLICATION PROCESS**

#### **4-I.A. OVERVIEW**

This part describes the PHA’s policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA’s obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

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### **4-I.B. APPLYING FOR ASSISTANCE [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]**

Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits the PHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by the PHA. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of OHCD's application.

#### OHCD Policy

OHCD will utilize a two-step application process.

Under the two-step application process, OHCD initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

Families submit application to OHCD in person or on-line, via OHCD's web-based Applicant Portal. As a reasonable accommodation to applicants with disability, OHCD will accept applications via telephone during normal business hours.

Completed application must be returned to the PHA by mail, electronically, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by OHCD for processing. If an application is incomplete, OHCD will reject the application and will notify the family of the additional information required.

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### 4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

#### **Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13]**

The PHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard PHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). The PHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or the PHA must provide an alternate approach that provides full access to the application process. Chapter 2 provides a full discussion of the PHA's policies related to providing reasonable accommodations for people with disabilities.

#### **Limited English Proficiency**

The PHA is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on the PHA's policies related to ensuring access to people with limited English proficiency (LEP).

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### 4-I.D. PLACEMENT ON THE WAITING LIST

The PHA must review each complete application received and make a preliminary assessment of the family's eligibility. The PHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, the PHA must notify the family in writing [24 CFR 982.201(f)]. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list [24 CFR 982.202(c)].

#### **Ineligible for Placement on the Waiting List**

##### OHCD Policy

If OHCD can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. When a family is determined to be ineligible, OHCD will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

#### **Eligible for Placement on the Waiting List**

##### OHCD Policy

OHCD's Applicant Portal will provide an automated written notification of the preliminary eligibility verification at the time the application is completed and submitted.

For phone and walk-in applications submitted as a reasonable accommodation for persons with disability, OHCD will provide a written determination of preliminary eligibility within 10 business days of receiving a complete application. The written verification may be provided via U.S. Mail, e-mail, or fax.

Placement on the waiting list does not indicate that the family is eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by OHCD.

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### **PART II: MANAGING THE WAITING LIST**

#### **4-II.A. OVERVIEW**

The PHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure a sufficient number of applicants.

In addition, HUD imposes requirements on how the PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

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### 4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

The PHA's HCV waiting list must be organized in such a manner to allow OHCD to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

The waiting list must contain the following information for each applicant listed:

- Applicant name;
- Family unit size (PBV only);
- Date and time of application;
- Qualification for any local preference;
- Racial or ethnic designation of the head of household.

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

#### OHCD Policy

OHCD will maintain a separate HCV program waiting list for Prince William County including the towns of Dumfries, Haymarket, Occoquan and Quantico.

HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program the PHA operates if 1) the other programs' waiting lists are open, and 2) the family is qualified for the other programs. The PHA does not offer these programs.

HUD permits, but does not require, that PHAs maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

#### OHCD Policy

OHCD may merge the HCV waiting list with the waiting list for any other program OHCD operates.

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### 4-II.C. OPENING AND CLOSING THE WAITING LIST [24 CFR 982.206]

#### **Closing the Waiting List**

The PHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, the PHA may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria.

##### OHCD Policy

The OHCD will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches 24 months for the most current applicants. Where the OHCD has particular preferences or funding criteria that require a specific category of family, the OHCD may elect to continue to accept applications from these applicants while closing the waiting list to others.

#### **Reopening the Waiting List**

If the waiting list has been closed, it cannot be reopened until the PHA publishes a public notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

##### OHCD Policy

OHCD will announce the reopening of the waiting list at least 10 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

OHCD will affirmatively market the availability of wait list opportunities through print media, radio, online sources and other suitable media outlets.

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### 4-II.D. FAMILY OUTREACH [HCV GB, pp. 4-2 to 4-4]

The PHA must conduct outreach as necessary to ensure that OHCD has a sufficient number of applicants on the waiting list to use the HCV resources it has been allotted.

Because HUD requires the PHA to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), the PHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance [HCV GB, p. 4-20 to 421].

The PHA outreach efforts must comply with fair housing requirements. This includes:

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

The PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

- Submitting press releases to local newspapers, including minority newspapers
- Developing informational materials and flyers to distribute to other agencies
- Providing application forms to other public and private agencies that serve the low-income population
- Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

#### OHCD Policy

OHCD will monitor the characteristics of the population being served and the characteristics of the population as a whole in OHCD's jurisdiction. Targeted outreach efforts will be undertaken when it is determined that certain populations are being underserved.



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### 4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

#### OHCD Policy

While the family is on the waiting list, the family must immediately, no later than 10 business days from the date of change, inform OHCD of changes in contact information, including current residence, mailing address, and phone number; family composition; income; or other information necessary to determine their preference status. The changes must be submitted in writing by mail, fax, or e-mail. The OHCD will update the pre-application with the change. If there is a change in preference status, the family's order on the waiting list will change.

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### 4-II.F. UPDATING THE WAITING LIST [24 CFR 982.204]

HUD requires the PHA to establish policies to use when removing applicant names from the waiting list.

#### **Purging the Waiting List**

The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to PHA request for information or updates, and PHA determines that the family did not respond because of the family member's disability, the PHA must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c)(2)].

#### OHCD Policy

The waiting list may be updated as needed to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the OHCD will send an update request via first class mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the OHCD has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email or by fax. Responses must be received by the OHCD no later than the due date listed on the notice from OHCD.

If the family fails to respond by the due date, the family will be removed from the waiting list.

If the post office returns the notice with no forwarding address, the applicant will be removed from the waiting list without further notice.

If the post office provides a forwarding address on the return notice, the notice will be re-sent to the address indicated. The family will be notified of the due date to respond to in the letter.

If a family is removed from the waiting list for failure to respond, the Director of OHCD may reinstate the family if he/she determines the lack of response was due to OHCD error, or to circumstances beyond the family's control.

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### Removal from the Waiting List

#### OHCD Policy

If at any time an applicant family is on the waiting list and OHCD determines that the family is not eligible for assistance (see Chapter 3), the family will be removed from the waiting list.

If a family is removed from the waiting list because OHCD has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding OHCD's decision (see Chapter 16) [24 CFR 982.201(f)].

## CHAPTER 4

### PART III: SELECTION FOR HCV ASSISTANCE

#### 4-III.A. OVERVIEW

As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

The order in which families are selected from the waiting list depends on the selection method chosen by the PHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 982.204(b) and 982.207(e)].

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### 4-III.B. SELECTION AND HCV FUNDING SOURCES

#### **Special Admissions [24 CFR 982.203]**

HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA may admit such families whether or not they are on the waiting list, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. The PHA must maintain records showing that such families were admitted with special program funding. Those admitted are identified by codes in the automated system and are not maintained on separate lists.

#### **Targeted Funding [24 CFR 982.204(e)]**

HUD may award the PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

##### OHCD Policy

OHCD administers the following types of targeted funding:

- Non-Elderly Disabled (NED)
- Veterans Affairs Supportive Housing (VASH) voucher

#### **Regular HCV Funding**

Regular HCV funding may be used to assist any eligible family on the waiting list. Families are selected from the waiting list according to the policies provided in Section 4-III.C.

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### 4-III.C. SELECTION METHOD

The PHA must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that OHCD will use [24 CFR 982.202(d)].

#### **Local Preferences [24 CFR 982.207; HCV p. 4-16]**

The PHA is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

#### OHCD Policy

OHCD will assist any family terminated from its HCV program due to insufficient program funding and then assist families that qualify for local preferences.

The OHCD has the following system to apply local preferences:

Preference 1. Families who live, work, or have been hired to work in the jurisdiction who are:

- Elderly (Elderly family means a family whose head or spouse or sole member is a person who is at least 62 years of age.), or
- Disabled (A disabled family is a family whose head, spouse, or sole member is a person with disabilities as defined by HUD), or
- Non-elderly person with disabilities who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, currently experiencing homeless, previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project, or those at risk of experiencing homelessness, or
- Homeless (HUD Final Rule Defining Homeless 76 FR 75994 [12-5-11]), or
- Graduates of Transitional Housing Program (as certified by local service provider or appropriate agency), or
- Victim(s) of Domestic Violence. Families that have been subjected to or victimized by a member of the family or household within the past 6 months. OHCD will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home. The following criteria are used to establish a family's eligibility for this preference:
  - Actual or threatened physical violence directed against the applicant or the applicant's family by spouse or other household member who lives

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- in the unit with the family,
- The actual or threatened violence must have occurred within the past 120 days or be of a continuing nature,
- An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced,
- To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless OHCD gives prior written approval.
  - Approval is only granted if the abuser has received therapy or counseling that appears to minimize the recurrence of violent behavior or a counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family. If the abuser returns to the family without OHCD approval OHCD will deny or terminate assistance

Preference 2. Applicants who live or work in the County of Prince William.

Preference 3. Applicants who live or work in the Commonwealth of Virginia.

Preference 4. Applicants who do not qualify for Preference 1, 2 or 3.

### Order of Selection

Among applicants with equal preference status all applicants on the waiting list will be organized by date and time of applicant. When selecting applicants from the waiting list the selection order will be:

1. Calendar Year;
2. Preference Level; and
3. Date and Time

### Income Targeting Requirement [24 CFR 982.201(b)(2)]

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during OHCD's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher. To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act [24 CFR 982.4(b)], as well as low-income or moderate-income families admitted to the program that are displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes [24 CFR 982.201(b)(2)(v)].

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### OHCD Policy

OHCD will monitor progress in meeting the income-targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income-targeting requirement is met.

### **Order of Preference**

The PHA system of preferences may select families based on local preferences according to the date and time of application, or by a random selection process [24 CFR 982.207(c)]. When selecting families from the waiting list the PHA is required to use targeted funding to assist only those families who meet the specified criteria, and the PHA is not permitted to skip down the waiting list to a family that is can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

### OHCD Policy

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with OHCD's hierarchy of preferences, if applicable. Within each targeted funding or preference category, families will be selected on a first come, first served basis according to the date and time their completed application is received by OHCD. Documentation will be maintained by OHCD as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that OHCD does not have to ask higher placed families each time targeted selections are made.

If the applicant claimed a residency preference on their original or updated application, residency preference verification documentation must be received by OHCD at the time the applicant is pulled from the waiting list.

Proof that that the head of household, spouse, or co-head currently lives in the County:

- A copy of a valid driver's license which includes a current address
- A copy of a valid state ID card which includes a current address
- A copy of a valid Medicaid card which includes a current address
- A valid Social Security printout letter which includes a current address
- A copy of a valid voter's registration card which includes a current address
- A letter from the Homeless Shelter, HARA, or Lead Agency indicating residency

Proof that the head of household, spouse, or co-head currently works in the County:

- A letter from the employer stating the applicant is employed in the County.
- A letter from the employer stating the applicant will be employed in the County.



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- A copy of a valid paycheck stub with the employer's address showing the business is located in the County.

OHCD's admission income eligibility criteria is that 80% of new admissions must be extremely low-income families and up to 20% of new admissions must be very low-income families.

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### 4-III.D. NOTIFICATION OF SELECTION

When a family has been selected from the waiting list, the PHA must notify the family. [24 CFR 982.554(a)].

#### OHCD Policy

OHCD will notify the family by first class mail no later than 10 business days from the date of selection from the waiting list. The notice will inform the family of the date, time and location of the meeting along with information about acceptable documentations required to determine eligibility. OHCD will also conduct a criminal background check and check to see if the family owes money to any federal program.

**In the event that the waiting list applicant contacts OHCD for a missed notification of selection from the waiting list the applicant will be provided a second appointment. If the applicant fails to attend the first appointment and does not notify OHCD they will be sent a notice of denial letter.**

If a notification letter is returned to OHCD with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record.

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### 4-III. E. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a PHA representative [HCV GB, pg. 4-16]. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

#### OHCD Policy

Families selected from the waiting list are required to participate in an eligibility interview. The head of household and the spouse/co-head and any adult over the age of 18 must attend the eligibility interview. Verification of information pertaining to adult members of the household that are not present at the interview will not begin until signed release forms are returned to the OHCD.

The interview will be conducted only if the head of household or spouse/co-head provides appropriate documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for 90 calendar days. If not all household members have disclosed their SSNs at the next time the PHA is issuing vouchers, the PHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the OHCD will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension, subject to approval by the OHCD. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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Applicants and residents are encouraged to provide their own interpreters. If they are unable to do so, the OHCD will endeavor to have a sign language interpreter or bilingual staff or access to people who speak languages other than English in order to assist non-English speaking families. (Executive Order 11063)

If the family is unable to attend a scheduled interview, the family should contact the OHCD in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, the OHCD will send a notice of denial in accordance with the policies contained in Chapter 3. The OHCD will consider scheduling another interview if the family can provide documentation showing a justifiable cause for missing the scheduled interview.

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### 4-III.F. COMPLETING THE APPLICATION PROCESS

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA must make a final determination of eligibility (see Chapter 3) and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

#### OHCD Policy

If OHCD determines that the family is ineligible, OHCD will send written notification of the ineligibility determination within 10 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. OHCD will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

If OHCD determines that the family is eligible to receive assistance, OHCD will invite the family to attend a briefing in accordance with the policies in Chapter 5.

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## CHAPTER 5

### BRIEFINGS AND VOUCHER ISSUANCE

#### INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit and limits the amount of time the family has to successfully locate an acceptable unit.

This chapter describes HUD regulations and PHA policies related to these topics in two parts:

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and its requirements. It includes a particular focus on the family's obligations under the program.

Part II: Subsidy Standards and Voucher Issuance. This part discusses the PHA's standards for determining how many bedrooms a family of a given composition qualifies for, which in turn affects the amount of subsidy the family can receive. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

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### **PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

#### **5-I.A. OVERVIEW**

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.



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### 5-I.B. BRIEFING [24 CFR 982.301]

#### **Notification of Briefing**

Prior to issuance of a voucher, the PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

#### OHCD Policy

Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent by first class mail and will also be sent by email if the family has provided a valid email address to OHCD.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in person or remote briefings as addressed in relevant policy elsewhere in this section.

If the notice is returned by the post office with no forwarding address, the applicant will be denied, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be resent to the address indicated.

#### **In Person Briefings**

At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

#### OHCD Policy

In Person briefing sessions will generally be conducted in group meetings to be limited to groups not to exceed 30 families. At the family's written request, OHC may provide an individual briefing.

Smaller groups or individual sessions will also be held, if necessary, as a reasonable accommodation. For Briefing Sessions that include any disabled person, the OHCD will take appropriate steps to insure effective communication in accordance with 24 CFR 8.6

Generally, the head of household or co-head is required to attend the briefing. If the head of household is unable to attend, the OHCD may approve another adult family member to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate PHA staff person.

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Briefings will be conducted in English. For Limited English Proficient (LEP) applicants, OHCD will provide interpretation services in accordance with OHCD's LEP plan (See Chapter 2). Applicants and residents are encouraged to provide their own interpreters, but the PHA discourages the use of family members as an interpreter. If a family is unable to provide an interpreter, they may request one and the PHA will provide a sign language interpreter, bilingual staff, or access to people who speak languages other than English in or to assist non-English speaking families (Executive Order 11063).

### *Attendance* OHCD Policy

Applicants who fail to attend a scheduled in person briefing will be scheduled for another briefing automatically. OHCD will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior OHC approval, will be denied assistance (see Chapter 3).

### **Remote Briefings [Notice PIH 2020-32]**

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

### OHCD Policy

OHCD has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. If OHCD schedules a remote briefing, OHCD will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

In addition, the PHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. The PHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

### **Accessibility Requirements for Persons with Disabilities and LEP Individuals**

As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

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If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual **their** inability to participate in the remote briefing, and the PHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances. Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings

### **Conducting Remote Briefings**

The PHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

#### OHCD Policy

At least 10 business days prior to scheduling the remote briefing, OHCD will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify OHCD of any known barriers. If any family does not respond within five business days, or if the written notification is returned by the post office or the email is rejected, OHCD will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. OHCD will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

OHCD will conduct remote briefings via a video conferencing platform when available. If applicants are unable to adequately access the video conferencing platform, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

OHCD provide login information and/or conferencing call-in information and an electronic copy of the briefing packet via email at least five business days before the briefing. OHCD will provide a paper copy of the briefing packet upon family request and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

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OHCD will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

OHCD will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing. If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with OHCD.

### **Notification and Attendance**

#### OHCD Policy

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be denied, and their name will not be placed back on the waiting list. If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated.

Applicants who fail to attend a scheduled briefing will be scheduled for another briefing automatically. OHCD will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior OHCD approval, will be denied assistance (see Chapter 3).

### **Oral Briefing [24 CFR 982.301(a)]**

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;

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- The advantages of areas that do not have a high concentration of low-income families;
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

In briefing a family that includes a person with disabilities, PHA must also take steps to ensure effective communication.

### **Briefing Packet [24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing*, p.7]**

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance; the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the PHA policy on providing information about families to prospective owners.
- The PHA subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live")
- HUD pamphlet on lead-based paint entitled *Protect Your Family From Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- Website and phone number for Virginia Housing Search for a list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration

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- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the PHA.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

If the PHA is located in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities [24 CFR 985.3(g)]:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers

### **Additional Items to Be Included in the Briefing Packet**

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2017-12].

#### OHCD Policy

OHCD will provide the following additional materials in the briefing packet:

Information on how to fill out and file a housing discrimination complaint form

The form HUD-5380 domestic violence certification form and the form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking

“Is Fraud Worth It?” (form **HUD-1141-OIG**), which explains the types of actions a family must avoid and the penalties for program abuse

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

Information on payment standards and OHCD utility schedule

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What a family should consider in deciding whether to lease a unit, including:

- a) The condition of the unit;
- b) Whether the rent is reasonable. At the family's request, the OHCD must help the family negotiate the rent to owner;
- c) The cost of tenant-paid utilities and whether the unit is energy efficient;  
and
- d) The location of the unit, including proximity to public transportation, centers of employment, schools and shopping.

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### 5-I.C. FAMILY OBLIGATIONS

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

#### Time Frames for Reporting Changes Required By Family Obligations

##### OHCD Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the PHA of a change, notifying OHCD of the request or change within 10 business days is considered prompt notice.

When a family is required to provide notice to the PHA, the notice must be in writing.

#### Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follows:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

##### OHCD Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.



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- The family must not commit any serious or repeated violation of the lease.

### OHCD Policy

OHCD will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim (24CFR 5.2005(c) (1).

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

### OHCD Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to OHCD at the same time the owner is notified. The family must promptly give the PHA a copy of any owner eviction notice.

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA approval to add any other family member as an occupant of the unit.

### OHCD Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OHCD will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

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### OHCD Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member. The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit. The family must promptly notify the PHA when the family is absent from the unit.

### OHCD Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to OHCD at the start of the extended absence. (See Chapter 12, Termination of Assistance and Tenancy for additional information).

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

### OHCD Policy

The OHCD will use HUD's Enterprise Income Verification (EIV) system to verify whether the family is receiving any additional housing subsidy.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

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### **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

#### **5-II.A. OVERVIEW**

The PHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The PHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

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### 5-II.B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

For each family, the PHA determines the appropriate number of bedrooms under the PHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

The following requirements apply when the PHA determines family unit size:

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size;
- Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the PHA subsidy standards.

#### OHCD Policy

#### **Subsidy Standards for the Housing Choice Voucher (HCV) Program:**

The OHCD will assign:

- One bedroom for the head of household (and spouse or cohead, if applicable);
- One bedroom for each two household members thereafter, regardless of the relationship, age or gender of the family members; and
- Any live-in aide (approved by the OHCD to reside in the unit to care for a family member who is disabled or is at least 50 years of age) will be allocated a separate bedroom. No additional bedrooms will be allocated for a live-in aide's family.

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The OHCD will reference the following space requirements to comply with state and local laws:

- The 2009 space requirements set forth in this policy are based on the Virginia Uniform Statewide Building Code (VUSBC), the Prince William County building code. Owners are responsible for ensuring their units comply with these requirements.
- The VUSBC establishes occupancy standards that are based on the square footage of the bedrooms and other sleeping areas, e.g. a den, finished basement, regularly occupied by those residing in the unit.
- Space requirements per bedroom or sleeping area are:
  - one person-70 square feet;
  - two or more persons per bedroom or sleeping area-50 square feet per person, e.g. 100 square feet for two people, 150 square feet for three people, etc.
- Areas designated as bedrooms or sleeping areas must provide privacy, adequate light and ventilation, two means of exit, one of which must lead directly to the outside, and must not be used as the only means of access to other bedrooms or other parts of the residential unit and shall not serve as the only means of exit from other habitable spaces of the unit. For example, a person must not have to go from their bedroom or sleeping area through another bedroom or sleeping area to go to the bathroom. They must have direct access from their bedroom or sleeping area to the bathroom.

## CHAPTER 5

### 5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances [24 CFR 982.402(b)(8)].

Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition

For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom [24 CFR 982.402(b)(8)].

#### OHCD Policy

OHCD will only consider granting an exception to the subsidy standards based on requests for reasonable accommodation.

It is preferred that the family requests the reasonable accommodation in writing. The request must explain the need or justification for a larger family unit size and must include appropriate documentation. Requests for reasonable accommodation must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability-related need for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at annual reexamination.

OHCD will notify the family of its determination within 10 business days of receiving the family's request.

Requests for a larger sized voucher due to a Family Unification court order will be reviewed on a case-by-case basis. The Housing Program Analyst must provide documentation verifying the court order and clearly showing the need for a larger size unit. The OHCD will submit the applicant/participant's request, including documentation, to the Housing Program Manager for review. If the request is approved, the court order, OHCD's written approval and the other documentation must be held in the file with the voucher.

## CHAPTER 5

### 5-II.D. VOUCHER ISSUANCE [24 CFR 982.302]

When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the PHA has determined the family to be eligible for the program, and that the PHA expects to have money available to subsidize the family if the family finds an approvable unit. However, the PHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the PHA's housing choice voucher program [Voucher, form HUD-52646] A voucher can be issued to an applicant family only after the PHA has determined that the family is eligible for the program based on verification of information received within the 60 days prior to issuance [24 CFR 982.201(e)] and after the family has attended an oral briefing [HCV GB 8-1].

#### OHCD Policy

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The PHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the PHA must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

#### OHCD Policy

Prior to issuing any vouchers, OHCD will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16.

If OHCD determines that there is insufficient funding after a voucher has been issued, OHCD may rescind the voucher and place the affected family on a list for voucher reissuance upon future availability of voucher funding.

OHCD will retain the recalled voucher list for a period of six-months. If at the end of the six-month period starting with the date the voucher was re-called by OHCD, and OHCD does not have sufficient funding to re-issue the voucher, the family will be returned to the waiting list.

## CHAPTER 5

### 5-II.E. VOUCHER TERM AND EXTENSIONS

#### Voucher Term [24 CFR 982.303]

The initial term of a voucher must be at least 60 calendar days. The initial term must be stated on the voucher [24 CFR 982.303(a)].

##### OHCD Policy

The initial voucher term will be 60 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 60-day period unless the PHA grants an extension.

#### Extensions of Voucher Term [24 CFR 982.303(b)]

The PHA has the authority to grant extensions of search time, to specify the length of an extension, and to determine the circumstances under which extensions will be granted. There is no limit on the number of extensions that the PHA can approve. Discretionary policies related to extension and expiration of search time must be described in the PHA's administrative plan [24 CFR 982.54].

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

##### OHCD Policy

If a family has not submitted a RTA within the first 60-days and the OHCD is granting extensions (at its discretion), the family must submit a Progress Report and show what attempts it has made to find an acceptable unit. The OHCD will offer advice and consultation and determine whether to issue an extension for an additional period of up to 30-60 day segments, but no more than the maximum 240 days. This decision by the supervisor will be based primarily on the efforts demonstrated by the family searching for a unit. If the supervisor determines that the family has made an adequate effort to obtain housing, the Voucher will be extended. If the family has not demonstrated an appropriate effort, OHCD staff may not offer an extension and the Voucher will expire and will be offered to another family on the waiting list.

The OHCD will approve additional 30-day extensions only in the following circumstances:

It is necessary as a reasonable accommodation for a person with disabilities. It is necessary due to reasons beyond the family's control, as determined by the PHA.



## CHAPTER 5

Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family
- Other family emergency
- Obstacles due to employment
- Whether the family has already submitted requests for tenancy approval that were not approved by the OHCD
- Whether family size or other special circumstances make it difficult to find a suitable unit
- The family has shown considerable diligence in searching for a unit.

Any request for an additional extension must include the reason(s) an additional extension is necessary. The OHCD may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for additional extensions to the voucher term must be made in writing and submitted to the OHCD prior to the expiration date of the voucher (or extended term of the voucher).

The OHCD will decide whether to approve or deny an extension request within 10 business days of the date the request is received and will immediately provide the family written notice of its decision.

### **Suspensions of Voucher Term [24 CFR 982.303(c)]**

At its discretion, a PHA may adopt a policy to suspend the housing choice voucher term if the family has submitted a Request for Tenancy Approval (RTA) during the voucher term. “Suspension” means stopping the clock on a family’s voucher term from the time a family submits the RTA until the time the PHA approves or denies the request [24 CFR 982.4]. The PHA’s determination not to suspend a voucher term is not subject to informal review [24 CFR 982.554(c) (4)].

#### OHCD Policy

When a Request for Tenancy Approval and proposed lease are received by the OHCD, the term of the voucher will be suspended while the OHCD processes the request.

When the OHCD denies a request for tenancy, the family will be notified immediately that the clock on the voucher term has restarted. The notice will include the new expiration date of the voucher.

## CHAPTER 5

### **Expiration of Voucher Term**

Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the PHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

#### OHCD Policy

If an applicant family's voucher extension expires before the OHCD has approved a tenancy, the OHCD will require the family to reapply for assistance.

Within 10 business days after the expiration of the voucher term or any extension, OHCD will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open, in order to be placed on the waiting list.

## CHAPTER 5

## CHAPTER 6

### INCOME AND SUBSIDY DETERMINATIONS [24 CFR Part 5, Subparts E and F; 24 CFR 982]

#### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations. This chapter describes HUD regulations and the PHA's policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and the PHA policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income has been established HUD regulations require the PHA to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and the PHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and OHCD Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining PHA subsidy and required family payment.

## CHAPTER 6

### PART I: ANNUAL INCOME

#### 6-I.A. OVERVIEW

The general regulatory definition of *annual income* shown below is from **24 CFR 5.609**.

5.609 Annual income.

(a) Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or AR effective date; and
- (3) Which are not specifically excluded in paragraph [24 CFR 5.609(c)].
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Inclusions (Exhibit 6-1)
- Annual Income Exclusions (Exhibit 6-2)
- Treatment of Family Assets (Exhibit 6-3)
- Earned Income Disallowance for Persons with Disabilities (Exhibit 6-4)
- The Effect of Welfare Benefit Reduction (Exhibit 6-5)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income.

HUD regulations present income inclusions and exclusions separately [24 CFR 5.609(b) and 24 CFR 5.609(c)]. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic (e.g., all policies affecting earned income are discussed together in section 6-I.D). Verification requirements for annual income are discussed in Chapter 7.

## CHAPTER 6

### 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

<b>Summary of Income Included and Excluded by Person</b>	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above \$480/year is excluded [24 CFR 5.609(c)(11)]. All other sources of income, except those specifically excluded by the regulations, are included.

#### **Temporarily Absent Family Members**

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit [HCV GB, p. 5-18].

##### OHCD Policy

Generally, an individual who is or is expected to be absent from the assisted unit for (a) 180 consecutive days or less or (b) less than half their time, is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for (a) more than 180 consecutive days or (b) more than half their time is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

## CHAPTER 6

### ***Absent Students***

#### OHCD Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to OHCD indicating that the student has established a separate household, or the family declares that the student has established a separate household.

### ***Absences Due to Placement in Foster Care***

Children temporarily absent from the home as a result of placement in foster care are considered members of the family [24 CFR 5.403].

#### OHCD Policy

If a child has been placed in foster care, OHCD will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

### ***Absent Head, Spouse, or Co-head***

#### OHCD Policy

An employed head, spouse, or co-head absent from the unit (a) more than 180 consecutive days or (b) more than half their time, due to employment (e.g. deployed in active military duty or employed out of state), will continue to be considered a family member.

### **Family Members Permanently Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted [HCV GB, p. 5-22].

#### OHCD Policy

OHCD will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualify as an elderly person or a person with disabilities.

## CHAPTER 6

### Joint Custody of Dependents

#### OHCD Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family 50 percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, OHCD will make the determination based on available documents such as court orders, school records or an IRS return showing which family has claimed the child for income tax purposes.

### Caretakers for a Child

#### OHCD Policy

The approval of a caretaker is at the owner and OHCD's discretion and subject to the owner and OHCD's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, OHCD will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases OHCD will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.



## CHAPTER 6

### 6-I.C. ANTICIPATING ANNUAL INCOME

The PHA is required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or AR effective date” [24 CFR 5.609(a)(2)]. Policies related to anticipating annual income are provided below.

#### **Basis of Annual Income Projection**

The PHA generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the PHA to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected [HCV GB, p. 5-17]
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income) [24 CFR 5.609(d)]
- OHCD believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

The PHA is required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance [24 CFR 5.233(a)(2)].

HUD allows PHA to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the PHA does not determine it is necessary to obtain additional third-party data.

#### OHCD Policy

Whenever possible, the OHCD will use HUD’s EIV system. When EIV is obtained and the family does not dispute the EIV employer data, OHCD will use current participant-provided documents to project annual income. When the participant-provided documents are pay stubs, OHCD will make every effort to obtain current and consecutive pay stubs dated within the last 60 days.

OHCD will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or If OHCD determines additional information is needed.

In such cases, OHCD will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how OHCD annualized projected income.

## CHAPTER 6

When OHCD cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), OHCD will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases, the family may present information and documentation to OHCD to show why the historic pattern does not represent the family's anticipated income.

### ***Known Changes in Income***

If OHCD verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case, OHCD would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases, OHCD will calculate annual income using current circumstances and then require an IR when the change actually occurs. This requirement will be imposed even if OHCD's policy on reexaminations does not require IRs for other types of changes.

When participant-provided third-party documents are used to anticipate annual income, they will be dated within the last 60 days of the reexamination interview date.

### **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

## CHAPTER 6

### **6-I.D. EARNED INCOME Types of Earned Income Included in Annual Income**

#### ***Wages and Related Compensation***

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income [24 CFR 5.609(b)(1)].

#### OHCD Policy

For persons who regularly receive bonuses or commissions, OHCD will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, OHCD will use the prior year amounts. In either case the family may provide, and OHCD will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, OHCD will count only the amount estimated by the employer. The file will be documented appropriately.

#### ***Some Types of Military Pay***

All regular pay, special pay and allowances of a member of the Armed Forces are counted [24 CFR 5.609(b)(8) except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(c)(7)].

### **Types of Earned Income Not Counted in Annual Income**

#### ***Temporary, Nonrecurring, or Sporadic Income [24 CFR 5.609(c)(9)]***

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days [Notice PIH 2009-19].

#### OHCD Policy

Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

#### ***Children's Earnings***

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 CFR 5.609(c)(1)]. (See Eligibility chapter for a definition of *foster children*.)

## CHAPTER 6

### ***Certain Earned Income of Full-Time Students***

Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 CFR 5.609(c)(11)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

### ***Income of a Live-in Aide***

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income [24 CFR 5.609(c)(5)]. (See Eligibility chapter for a full discussion of live-in aides.)

### ***Income Earned under Certain Federal Programs***

Income from some federal programs is specifically excluded from consideration as income [24 CFR 5.609(c)(17)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- Awards under the federal work-study program (20 U.S.C. 1087 uu)
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

### ***State and Local Employment Training Programs***

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 CFR 5.609(c)(8)(v)].

## CHAPTER 6

### OHCD Policy

OHCD defines *training program* as “a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

OHCD defines *incremental earnings and benefits* as the difference between: (1) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program, and (2) the total amount of welfare assistance and earnings of the family member after enrollment in the program [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, OHCD will use as the pre-enrollment income the total annualized amount of the family member’s welfare assistance and earnings reported on the family’s most recently completed HUD-50058.

End of participation in a training program must be reported in accordance with OHCD's interim reporting requirements.

### ***HUD-Funded Training Programs***

Amounts received under training programs funded in whole or in part by HUD [24 CFR 5.609(c)(8)(i)] are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

### OHCD Policy

To qualify as a training program, the program must meet the definition of *training program* provided above for state and local employment training programs.

### ***Earned Income Tax Credit***

Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j)), are excluded from annual income [24 CFR 5.609(c)(17)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee’s payroll check.

### ***Earned Income Disallowance***

The earned income disallowance for persons with disabilities is discussed in section 6-I.E below.

## CHAPTER 6

### **6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]**

The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. The full text of 24 CFR 5.617 is included as Exhibit 6-4 at the end of this chapter. Eligibility criteria and limitations on the disallowance are summarized below.

#### **Eligibility**

This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families [24 CFR 5.603(b)].
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six-month period must be at least \$500.

#### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

## CHAPTER 6

### Calculation Method

#### *Initial 12-Month Exclusion*

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

##### OHCD Policy

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### *Second 12-Month Exclusion*

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

##### OHCD Policy

During the second 12-month exclusion period, OHCD will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

#### *Lifetime Limitation*

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

## CHAPTER 6

### 6-I.F. BUSINESS INCOME [24 CFR 5.609(b)(2)]

Annual income includes “the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family” [24 CFR 5.609(b)(2)].

#### **Business Expenses**

Net income is “gross income less business expense” [HCV GB, p. 5-19].

##### OHCD Policy

To determine business expenses that may be deducted from gross income, OHCD will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described below.

#### **Business Expansion**

HUD regulations do not permit the PHA to deduct from gross income expenses for business expansion.

##### OHCD Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

#### **Capital Indebtedness**

HUD regulations do not permit the PHA to deduct from gross income the amortization of capital indebtedness.

##### OHCD Policy

*Capital indebtedness* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means OHCD will allow as a business expense interest, but not principal, paid on capital indebtedness.



## CHAPTER 6

### **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

### **Withdrawal of Cash or Assets from a Business**

HUD regulations require the PHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

#### OHCD Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, OHCD will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid.

Investments do not include the value of labor contributed to the business without compensation.

### **Co-owned Businesses**

#### OHCD Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

## CHAPTER 6

### 6-I.G. ASSETS [24 CFR 5.609(b)(3)]; [24 CFR 5.603(b)]

#### Overview

There is no asset limitation for participation in the HCV program. However, HUD requires that the PHA include in annual income the anticipated “interest, dividends, and other net income of any kind from real or personal property” [24 CFR 5.609(b)(3)]. This section provides guidance on how different types of assets are valued and how income from these assets is established.

The section begins with a discussion of general policies related to assets and then provides HUD rules and PHA policies related to each type of asset. Each type of asset covered is identified below. Only those that require a PHA policy are discussed.

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)] and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and the PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

#### General Policies

##### *Income from Assets*

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the PHA to use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected (2) it is not feasible to anticipate a level of income over 12 months or (3) PHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the PHA can take into consideration past rental income along with the prospects of obtaining a new participant.

##### OHCD Policy

Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to OHCD to show why the asset income determination does not represent the family’s anticipated asset income.

##### *Valuing Assets*

The calculation of asset income sometimes requires the PHA to make a distinction between an asset’s market value and its cash value.

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

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- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

### OHCD Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions [HCV GB, p. 5-28].

### ***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account) [RHIIP FAQs]. (For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.)

### ***Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]***

When net family assets are \$5,000 or less, the PHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA. Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.

The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

### OHCD Policy

OHCD initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

OHCD will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of review.

The passbook interest rate for OHCD is 0.09%.

## CHAPTER 6

### ***Determining Actual Anticipated Income from Assets***

It may or may not be necessary for the PHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

### ***Withdrawal of Cash or Liquidation of Investments***

Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

### ***Jointly Owned Assets***

The regulation at 24 CFR 5.609(a)(4) specifies that annual income includes "amounts derived (during the 12-month period) from assets to which any member of the family has access."

#### OHCD Policy

If an asset is owned by more than one person and any family member has unrestricted access to the asset, OHCD will count the full value of the asset. A family member has unrestricted access to an asset when he or she can legally dispose of the asset without the consent of any of the other owners.

If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, OHCD will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, OHCD will prorate the asset evenly among all owners.

### ***Assets Disposed of for Less than Fair Market Value [24 CFR 5.603(b)]***

HUD regulations require the PHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

## CHAPTER 6

### ***Minimum Threshold***

The *Guidebook* permits the PHA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### OHCD Policy

OHCD will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-certifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or participant receives important consideration not measurable in dollar terms.

#### OHCD Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

### ***Family Declaration***

#### OHCD Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. OHCD may verify the value of the assets disposed of if other information available to OHCD does not appear to agree with the information reported by the family.

## CHAPTER 6

### Types of Assets

#### *Checking and Savings Accounts*

For regular checking accounts and savings accounts, *cash value* has the same meaning as *market value*. If a checking account does not bear interest, the anticipated income from the account is zero.

##### OHCD Policy

In determining the value of a checking account and savings accounts, OHCD will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, OHCD will multiply the value of the account by the current rate of interest paid on the account.

#### *Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds*

Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

##### OHCD Policy

In determining the market value of an investment account, OHCD will use the value of the account on the most recent investment report.

How anticipated income from an investment account will be calculated depends on whether the rate of return is known. For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings). When the anticipated rate of return is not known (e.g., stocks), OHCD will calculate asset income based on the earnings for the most recent reporting period.

#### *Equity in Real Property or Other Capital Investments*

Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset [HCV GB, p. 5-25].

##### OHCD Policy

In determining the equity, OHCD will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

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OHCD will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, OHCD will use the basic loan balance information to deduct from the market value in the equity calculation.

Equity in real property and other capital investments is considered in the calculation of asset income **except** for the following types of assets:

- Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b), Notice PIH 2012-3] Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 CFR 5.603(b)]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 20123].

### OHCD Policy

For the purposes of calculating expenses to convert to cash for real property, OHCD will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

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### OHCD Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless OHCD determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### ***Trusts***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

#### *Revocable Trusts*

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### *Non-revocable Trusts*

In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate [24 CFR 5.603(b)]. (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

### ***Retirement Accounts***

#### *Company Retirement/Pension Accounts*

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 526], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

#### *IRA, Keogh, and Similar Retirement Savings Accounts*

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].



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### *Personal Property*

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

#### OHCD Policy

In determining the value of personal property held as an investment, OHCD will use the family's estimate of the value. OHCD may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary personal property consists of only those items not held as an investment, and may include clothing, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities [24 CFR 5.603(b)].

### *Life Insurance*

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets [HCV GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated number of dividends or interest is counted as income from the asset whether or not the family actually receives it.

## CHAPTER 6

### 6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are and are not included in annual income.

#### Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b)(4) and (b)(3)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b)(4) and HCV GB, p. 5-14].

#### Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [ 24 CFR 5.609(c)(14)].

#### OHCD Policy

When a delayed-start payment is received and reported during the period in which OHCD is processing an AR, OHCD will adjust the family share and OHCD subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with OHCD.

See Chapter 11 for information about a family's obligation to report lump-sum receipts between annual re-examinations.

#### Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, OHCD must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

## CHAPTER 6

### **Periodic Payments Excluded from Annual Income**

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(c)(2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2012-1].

#### OHCD Policy

OHCD will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)].
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)) [24 CFR 5.609(c)(17)].
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q) [24 CFR 5.609(c)(17)].
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)) [24 CFR 5.609(c)(17)].  
*Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.H.) [24 CFR 5.609(c)(4)].
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [24 CFR 5.609(c)(14)].

## CHAPTER 6

### 6-I.I. PAYMENTS IN LIEU OF EARNINGS

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)

## CHAPTER 6

### 6-I.J. WELFARE ASSISTANCE

#### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].

#### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the PHA must include in annual income “imputed” welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

#### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

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### **6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [24 CFR 5.609(b)(7)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

#### **Alimony and Child Support**

The PHA must count alimony or child support amounts awarded as part of a divorce or separation agreement.

##### OHCD Policy

OHCD will count court-awarded amounts for alimony and child support unless OHCD verifies that: (1) the payments are not being made, and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments [HCV GB, pp. 5-23 and 5-47].

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

#### **Regular Contributions or Gifts**

The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(c)(9)].

##### OHCD Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments), (2) cash or other liquid assets provided to any family member on a regular basis, and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by OHCD. For contributions that may vary from month to month (e.g., utility payments), OHCD will include an average amount based upon past history.

## CHAPTER 6

### 6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9) and Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

#### Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9);CFR 4/10/06; Notice PIH 2015-21]

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Section 3-II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.
- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].

This is the amount of tuition and required fees covering a full academic year most frequently charged to students.

The amount represents what a typical student would be charged and may not be the same for all students at an institution.

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If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.

Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).

Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

### **Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]**

Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in Section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.



## CHAPTER 6

### 6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions contained in 24 CFR 5.609(c) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 CFR 5.609(c)(4)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(8)(iii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(c)(8)(ii)]
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(c)(10)]
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(c)(12)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(c)(15)]
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(c)(16)]
- Amounts specifically excluded by any other federal statute [24 CFR 5.609(c)(17)], [FR Notice 05/20/14] HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC.
  - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts

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- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f (b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, Act for a period of one year from the time of receipt of that payment as provided in the Claims Resolution of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applied to Native American Housing Programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount

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of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)

- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance.

## CHAPTER 6

### PART II: ADJUSTED INCOME

#### 6-II.A. INTRODUCTION

##### Overview

HUD regulations require the PHA to deduct from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity [OHCD] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### OHCD Policy

Generally, OHCD will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., childcare during school and non-school periods and cyclical medical expenses), OHCD will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, OHCD will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. OHCD may require the family to provide documentation of payments made in the preceding year.

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### 6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent [ 24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

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### 6-II.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of \$400 is taken for any elderly or disabled family [24 CFR 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

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### 6-II.D. MEDICAL EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent of annual income.

The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted [VG, p. 28].

#### Definition of *Medical Expenses*

HUD regulations define *medical expenses* at 24 CFR 5.603(b) to mean “medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.”

#### OHCD Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

<b>Summary of Allowable Medical Expenses from IRS Publication 502</b>	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, non-cosmetic	Psychiatric treatment
Services of medical facilities	Ambulance services and some costs of transportation related to medical expenses
Hospitalization, long-term care, and in-home nursing services	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Prescription medicines and insulin, but <u>not</u> nonprescription medicines even if recommended by a doctor	Cost and continuing care of necessary service animals
Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	Medical insurance premiums or the cost of a health maintenance organization (HMO)

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**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.

### **Families That Qualify for Both Medical and Disability Assistance Expenses**

#### OHCD Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OHCD will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

This does not prevent the OHCD from determining that some expenses must be classified as disability assistance expenses. For example, if a person with disabilities is the one who is enabled to work, and expense that is obviously completely work related (such as special equipment used only to permit a deaf person to communicate with other employees) would not be considered a medical expense.



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### **6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed three percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

#### OHCD Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, OHCD will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When OHCD determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

#### **Eligible Disability Expenses**

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member (18 years of age or older) to work” [HCV GB, p. 5-30].

HUD advises the PHA to further define and describe auxiliary apparatus [VG, p. 30].

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### *Eligible Auxiliary Apparatus*

#### OHCD Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost-of-service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

### *Eligible Attendant Care*

The family determines the type of attendant care that is appropriate for the person with disabilities.

#### OHCD Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, OHCD will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### *Payments to Family Members*

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

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### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### OHCD Policy

OHCD determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, OHCD will collect information from organizations that provide services and support to persons with disabilities. A family may present, and OHCD will consider, the family's justification for costs that exceed typical costs in the area.

### **Families That Qualify for Both Medical and Disability Assistance Expenses**

#### OHCD Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, OHCD will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

This does not prevent the OHCD from determining that some expenses must be classified as disability assistance expenses. For example, if a person with disabilities is the one who is enabled to work, and expenses that is obviously work related (such as special equipment used only to permit a deaf person to communicate with other employees) would not be considered a medical expense.

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### 6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *childcare expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

#### Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family’s household are included when determining the family’s childcare expenses [HCV GB, p. 5-29].

#### Qualifying for the Deduction

##### *Determining Who Is Enabled to Pursue an Eligible Activity*

###### OHCD Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family’s request, OHCD will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

##### *Seeking Work*

###### OHCD Policy

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the childcare expense being allowed by OHCD.

## CHAPTER 6

### ***Furthering Education***

#### OHCD Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

### ***Being Gainfully Employed***

#### OHCD Policy

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

#### OHCD Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, OHCD generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

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### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare [VG, p. 26].

### ***Allowable Child Care Activities***

#### OHCD Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, OHCD will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

#### OHCD Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, OHCD will use the schedule of childcare costs. Families may present, and OHCD will consider, justification for costs that exceed typical costs in the area.

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	Family Child Care Providers	Child Care Centers
<b>Infants</b>	\$200 - \$240	\$320 - \$362
<b>Toddlers</b>	\$185 - \$225	\$302 - \$352
<b>Preschoolers</b>	\$165 - \$200	\$257 - \$300
<b>School-Age (full time)</b>	\$150 - \$180	\$228 - \$276
<b>Before and After School</b>	\$100 - \$150	\$148 - \$174

### Weekly Amounts

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### PART III: CALCULATING FAMILY SHARE AND OHCD SUBSIDY

#### **6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- A minimum rent between \$0 and \$50 that is established by OHCD

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### ***Welfare Rent [24 CFR 5.628]***

If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing cost, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated [is considered the welfare rent].

24 CFR 5.628 requires the PHA to enter a welfare rent as part of the TTP formula when welfare assistance in the jurisdiction is provided "as paid". *As paid* to a system in which a separate amount within the family's welfare grant is specifically designated for shelter and utilities and is adjusted based upon the family's actual housing cost.

#### OHCD Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

HUD requires the PHA to establish a minimum rent that may be from \$0 to \$50. Minimum rent applies only when the PHA-established rent is the higher amount of the TTP calculation. See below how the minimum rent applies.



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### Example: Impact of Minimum Rent on TTP Calculations

A family receives \$3,000 annually or \$250 monthly, in welfare assistance. The family has three children and no other deductions. The dependent deduction for the three children amounts to  $\$480 \times 3 = \$1,440$ , so the family's annual adjusted income is  $\$3,000 - \$1,440 = \$1,560$ , making its monthly adjusted income  $\$1,560 / 12 = \$130$ . The family utility allowance is \$65. The welfare rent is not applicable.

With Minimum Rent of \$0	With Minimum Rent of \$50
TTP equals the greater of :	TTP equals the greater of :
\$39 Monthly adjusted income X 0.30	\$39 Monthly adjusted income X 0.30
\$25 Monthly gross income X 0.10	\$25 Monthly gross income X 0.10
N/A Welfare Rent	N/A Welfare Rent
\$0 Minimum Rent	\$50 Minimum Rent
\$39 TTP	\$50 TTP
<u>-65</u> Utility Allowance	<u>-65</u> Utility Allowance
\$26 Utility Reimbursement	\$15 Utility Reimbursement

HUD regulations provide for hardship exemptions from minimum rent. See section 6-III.B

#### OHCD Policy

The minimum rent for OHCD's jurisdiction for HCV vouchers, including VASH voucher holders and OHCD participants, is \$0.

#### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for participant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6III.C.)

#### **Security Deposit**

Landlords may charge security deposits not to exceed the State standard of no more than two months of contract rent. This charge is the responsibility of the Participant. In the event that the issued Voucher has a provision for the payment of a security deposit for rent, OHCD will issue payment directly to the Landlord. Following termination of the lease, damage to the unit or premises caused by a household member or guest beyond normal wear and tear will result in the

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use of the security deposit to cover said damages. Any remaining security deposit, whether paid by OHCD or the Participant will be returned to the Participant. "Normal wear and tear" are defined as items which could not be charged against the participant's security deposit under state law or court practice.

### **PHA Subsidy [24 CFR 982.505(b)]**

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

### **Utility Reimbursement [24 CFR 982.514(b), 982.514(c)]**

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

#### OHCD Policy

OHCD will make utility reimbursements to the family and notify the family.

**All Participants who fail to receive a utility reimbursement due to failure to register as a Vender with Prince William County must register no later than 180 days following the end of the prior fiscal year (June 30), in order to receive reimbursement.**

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

#### OHCD Policy

OHCD will issue all utility reimbursements monthly.

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### 6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

#### OHCD Policy

The financial hardship rules described below does apply in this jurisdiction because OHCD has established a minimum rent of \$0.

#### **Overview**

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

#### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

#### OHCD Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

#### OHCD Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or participant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

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(4) A death has occurred in the family.

### OHCD Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses for a member of the household or the loss of the family member's income).

(5) The family has experienced other circumstances determined by OHCD.

### OHCD Policy

OHCD has not established any additional hardship criteria.

## **Implementation of Hardship Exemption**

### ***Determination of Hardship***

When a family requests a financial hardship exemption, must suspend the minimum rent requirement beginning the first of the month following the family's request. When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. To further explain this requirement, see chart that illustrates that the family's share is not automatically reduced to zero in hardship cases.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term. Since HUD does not define temporary or long-term hardship, the PHA must decide what these terms mean.

### OHCD Policy

OHCD defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardship is defined as a hardship expected to last more than 90 days. OHCD will make a decision within 30-days of the family's request.

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When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b>Example: Impact of Minimum Rent Exemption</b> Assume OHCD has established a minimum rent of \$50.00.	
<b>Family Share – No Hardship</b>	<b>Family Share – With Hardship</b>
\$0 30% of monthly adjusted income	\$0 30% of monthly adjusted income
\$15 10% of monthly gross income	\$15 10% of monthly gross income
N/A Welfare rent	N/A Welfare rent
\$50 Minimum rent	\$50 Minimum rent
Minimum rent applies. TTP = \$50	Hardship exemption granted. TTP = \$15

OHCD Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family’s ability to pay the minimum rent.

OHCD will make the determination of hardship within 30 calendar days.

***No Financial Hardship***

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

OHCD Policy

OHCD will require the family to repay the suspended amount within 30 calendar days of OHCD’s notice that a hardship exemption has not been granted.

***Temporary Hardship***

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family’s request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

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### OHCD Policy

OHCD will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

### ***Long-Term Hardship***

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

### OHCD Policy

The hardship period ends when any of the following circumstances apply:

- (1) At an IR or AR, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## CHAPTER 6

### 6-III.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505]

#### Overview

The PHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the PHA's payment standards. The establishment and revision of the PHA's payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as “the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)” [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of an FMR area and a family's unit is located in the exception area, the PHA must use the appropriate payment standard for the exception area.

The PHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

#### Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### *Decreases*

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. The PHA will determine the payment standard for the family as follows:

**Step 1:** At the first regular reexamination following the decrease in the payment standard, the PHA will determine the payment standard for the family using the lower of the payment standard for the family unit size or the size of the dwelling unit rented by the family.

**Step 2:** The PHA will compare the payment standard from step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard

## CHAPTER 6

used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.

**Step 3:** At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards described below.

The PHA will not establish different policies for decreases in payment standards for designated area within their jurisdiction.

### *Increases*

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next AR [HCV GB, p. 7-8].

### *Changes in Family Unit Size (Voucher Size)*

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.



## CHAPTER 6

### 6-III.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

#### Overview

A PHA-established utility allowance schedule is used in determining family share and the PHA subsidy. A family's utility allowance is determined by the size of the dwelling unit leased by a family or the voucher size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two. Effective July 1, 2014, the PHA must use the appropriate utility allowance for the lower of the actual unit size or the voucher size. Prior to the HUD Regulation change effective on July 1, 2014, the actual unit size was always used to apply the appropriate utility allowance.

For policies on establishing and updating utility allowances, see Chapter 16.

#### Reasonable Accommodation

HCV program regulations require the PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

#### Utility Allowance Revisions

At reexamination, the PHA must use the current utility allowance schedule [HCV GB, p.18-8].

##### OHCD Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first AR that is effective after the allowance is adopted [HCV GB, p.18-9].

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### **6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the PAA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

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## **CHAPTER 7**

### **VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2018-18]

#### **INTRODUCTION**

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies. Including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of OHCD.

## CHAPTER 7

### PART I: GENERAL VERIFICATION REQUIREMENTS

#### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].

#### **Consent Forms**

It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

## CHAPTER 7

### 7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

#### HUD's Verification Hierarchy [Notice PIH 2018-18]

HUD authorizes the PHA to use six methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires OHCD to use the most reliable form of verification that is available and to document the reasons when PHA uses a lesser form of verification.

##### OHCD Policy

In order of priority, the forms of verification that OHCD will use are:

- Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Up-front Income Verification (UIV) using a non-HUD system
- Written Third-Party Verification (issued by the income source and hand-carried/ provided by applicant or participant)
- Written Third-party Verification Form (directly from the income source)
- Oral Third-party Verification
- Self-Certification

Each of the verification methods is discussed in subsequent sections below.

#### Requirements for Acceptable Documents

##### OHCD Policy

Any documents used for verification generally must be dated within 60 calendar days of OHCD's request. The documents must not be damaged, altered or in any way illegible. Printouts from web pages are considered original documents.

The OHCD member who views the original document must obtain a photocopy. The OHCD will accept documents dated up to 6 months before the effective date of the family's re-examination if the document is the most current verification available and represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the OHCD would accept the most recent report.

Any family self-certifications must be made in a format acceptable to OHCD and must be signed ~~in the presence of a OHCD representative or notarized.~~

## CHAPTER 7

### **File Documentation**

PHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the PHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

#### OHCD Policy

OHCD will document, in the family file, the following:

- Reported family annual income
- Value of assets
- Expenses related to deductions from annual income
- Other factors influencing the adjusted income or income-based rent determination

When OHCD is unable to obtain 3rd party verification, OHCD will document in the family file the reason that third-party verification was not available [24 CFR 960.259(c)(1); Notice PIH 2018-18].

## CHAPTER 7

### 7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

See Chapter 6 for PHA's policy on the use of UIV/EIV to project annual income.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. HUD requires PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

#### ***EIV Income and IVT Reports***

The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

##### OHCD Policy

OHCD will obtain income and IVT reports for annual reexaminations. Reports will be generated as part of the regular reexamination process.

Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.



## CHAPTER 7

When OHCD determines through income and IVT reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### ***EIV Identity Verification***

The EIV system verifies participant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

The PHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

#### OHCD Policy

OHCD will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

OHCD will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When OHCD determines that discrepancies exist due to OHCD errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

### **Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages the PHA to utilize other upfront verification sources.

#### OHCD Policy

The OHCD will inform all applicants and participants of its use of the following UIV resources during the admission and re-examination process:

- HUD's EIV system
- Virginia Employment Commission
- Child Support Enforcement

## CHAPTER 7

### 7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

HUD's current verification hierarchy defines two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, OHCD must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

#### **Written Third-Party Verification [Notice PIH 2018-18]**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable participant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

The PHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

#### OHCD Policy

Third-party documents provided by the family must be dated within 60 days of OHCD's request date.

If OHCD determines that third-party documents provided by the family are not acceptable, OHCD will explain the reason to the family and request additional documentation.

As verification of earned income, OHCD will require the family to provide a month of the most current, consecutive pay stubs. At OHCD's discretion, if additional paystubs are needed due to the family's circumstances (e.g. sporadic income, fluctuating schedule, etc.), OHCD may request additional paystubs or payroll records.

#### **Written Third-Party Verification Form**

When upfront verification is not available and the family is unable to provide written third-party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks, which may be reduced through the use of family-provided third-party documents.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income (\$200 a month or more) and there is no UIV or participant-provided documentation to support the income discrepancy.

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The PHA may mail, fax, or email third-party written verification form requests to third-party sources.

### OHCD Policy

OHCD will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by OHCD.

### **Oral Third-Party Verification [Notice PIH 2018-18]**

For third-party oral verification, PHA contacts sources, identified by UIV techniques or by the family, by telephone or in person.

Oral third-party verification is mandatory if neither form of written third-party verification is available.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

The PHA should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

### OHCD Policy

In collecting third-party oral verification, PHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification OHCD will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

### ***Reasonable Effort and Timing***

#### OHCD Policy

The OHCD may mail, fax, email, or hand deliver third party written verification requests and will accept *third-party* responses using any of these methods. The OHCD will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not be received by the 11<sup>th</sup> business day, the OHCD will request third-party oral verification.

The OHCD will make a minimum of two attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file.

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### **When Third-Party Verification is Not Required [Notice PIH 2018-18]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

#### OHCD Policy

If the family cannot provide original documents, OHCD will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### ***Imputed Assets***

HUD permits the PHA to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

#### OHCD Policy

OHCD will accept a self-certification from a family as verification of assets disposed of for less than \$5,000.

### ***Value of Assets and Asset Income [24 CFR 982.516(a)]***

For families with net assets totaling \$5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

#### OHCD Policy

For families with net assets totaling \$5,000 or less, OHCD will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age or older must sign the family's declaration.

OHCD will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

## CHAPTER 7

### 7-I.E. SELF-CERTIFICATION

Self-certification, or “participant declaration,” is used as a last resort when OHCD is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed source of income (See Chapter 11)

When the PHA relies on a participant declaration for verification of income, assets, or expenses, the family’s file must be documented to explain why third-party verification was not available.

#### OHCD Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to OHCD.

OHCD may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to OHCD and must be signed by the family member whose information or status is being verified. ~~All self-certifications must be signed in the presence of OHCD representative or a notary public.~~

## CHAPTER 7

### PART II: VERIFYING FAMILY INFORMATION

#### 7-II.A. VERIFICATION OF LEGAL IDENTITY

Verification of legal identity is not required by regulations, but is recommended by HUD, notably in Notice PIH 2001-15 and in its appendix, the Improving Income Integrity, Guidance Booklet. Since verification of legal identity is a PHA policy issue, the PHA can determine when forms of documentation are acceptable.

##### OHCD Policy

OHCD will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. military discharge (DD 214) U.S. passport Current government employer identification card with picture	Certificate of birth Adoption papers Health and Human Services ID Custody Agreement Affidavit of Parentage Certified School Records

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at OHCD's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to OHCD and **must be signed by the family member whose information or status is being verified in presence of a OHCD representative or a notary public.**

**Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing themselves to be a participant.**

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### 7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual
- Such other evidence of the SSN as HUD may prescribe in administrative instructions

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

#### OHCD Policy

OHCD will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to OHCD within 90 days.

When the participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. OHCD may not add the new household member until such documentation is provided.

When a participant request to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if OHCD determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period OHCD is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

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### OHCD Policy

OHCD will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual assistance.

Social security numbers must be verified only once during continuously assisted occupancy.

### OHCD Policy

OHCD will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder until EIV Identity has been verified. Upon EIV identity verification, OHCD will retain the verification and properly dispose of the copies of the Social Security Card.

Once an individual's status is classified as "verified" in HUD's EIV system, OHCD may redact or remove and destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.



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### 7-II.C. DOCUMENTATION OF AGE

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### OHCD Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, OHCD will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Acceptable verification of age includes:

1. Birth Certificate
2. Driver's license or State Identification Card (current or expired)
3. Hospital Record
4. Affidavit of Parentage
5. Form DD-214 (Veterans Only)
6. United States Passport
7. Cradle Roll
8. Baptism Record
9. Naturalization Certificate
10. Letter from unit of local government (of birth location) identifying why a birth certificate is not available
11. Third-Party Verification of birth (i.e., letter from Social Security Administration [SSA])
12. Resident alien card

Age must be verified only once during continuously assisted occupancy.

## CHAPTER 7

### 7-II.D. FAMILY RELATIONSHIPS

The relationship of each household member to the head of household may affect the determination of adjusted income and must therefore be verified [24 CFR 982.516(a)(2)(iv)]. Definitions of the primary household relationships are provided in the Chapter 3. The PHA must give guidance to staff regarding the extent to which these relationships will be verified.

#### OHCD Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

### **Marriage**

Marital status could affect the determination of total or adjusted income. PHA staff need guidance on what to do if some information causes staff to doubt the validity of the marital relation. The relationship of each household member to the head of household may affect the determination of adjusted income and must therefore be verified [24 CFR 982.516(a)(2)(iv)].

#### OHCD Policy

Certification by the head of household is normally sufficient verification. If OHCD has reasonable doubts about a marital relationship, OHCD will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

### **Separation or Divorce**

#### OHCD Policy

Certification by the head of household is normally sufficient verification. If OHCD has reasonable doubts about a separation or divorce, OHCD will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be acceptable.

## CHAPTER 7

### **Absence of Adult Member**

#### OHCD Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, OHCD may require that the family provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a utility bill), **if the PHA so requests.**

### **Foster Children and Foster Adults**

#### OHCD Policy

Third-party verification from an authorized agency responsible for the placement of the individual with the family is required.

## CHAPTER 7

### 7-II.E. VERIFICATION OF STUDENT STATUS

#### General Requirements

##### OHCD Policy

OHCD requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports childcare expenses to enable a family member to further **their** education.
- The family includes a student enrolled in an *institution of higher education*.

#### Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

##### OHCD Policy

In accordance with the verification hierarchy described in Section 7-1.B, OHCD will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-II.E.
- The student is a person with disabilities, as defined in Section 3-II.E, and was receiving assistance prior to November 30, 2005.

If OHCD cannot verify at least one of these exemption criteria, OHCD will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, OHCD will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from **their** parents (see below).

## CHAPTER 7

### *Independent Student*

#### OHCD Policy

OHCD will verify a student's independence from **their** parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from **their** parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E)
- Reviewing the student's prior year income tax returns to verify the student is independent or verify the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E).
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which OHCD determines that the student is a vulnerable youth (see section 3-II.E).

## CHAPTER 7

### 7-II.F. DOCUMENTATION OF DISABILITY

OHCD must verify the existence of a disability in order to allow certain income disallowances and deductions from income. OHCD is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. OHCD may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If OHCD receives a verification document that provides such information, OHCD will not place this information in the participant file. Under no circumstances will OHCD request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

### Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

#### OHCD Policy

For family members claiming disability who receive disability benefits from the SSA, OHCD will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, OHCD will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), OHCD will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter, they will be required to provide it to OHCD.

## CHAPTER 7

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

#### OHCD Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## CHAPTER 7

### 7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

#### Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and the PHA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy. [24 CFR 5.508(g)(5)]

#### U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### OHCD Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless OHCD receives information indicating that an individual's declaration may not be accurate.

#### Eligible Immigrants

##### *Documents Required*

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

##### *OHCD Verification* [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.



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For family members under the age of 62 who claim to be eligible immigrants, OHCD must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

## CHAPTER 7

### 7-II.H. VERIFICATION OF PREFERENCE STATUS

PHA must verify any preferences claimed by an applicant.

#### OHCD Policy

OHCD will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. OHCD will verify this preference using OHCD's termination records.

OHCD also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking, as described in Section 4-III.C. To verify that applicants qualify for the preference, OHCD will follow documentation requirements outlined in Section 16-IX.D.

## CHAPTER 7

### PART III: VERIFYING INCOME AND ASSETS

Chapter 6, Part I of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides PHA policies that supplement the general verification procedures specified in Part I of this chapter.

#### 7-III.A. EARNED INCOME

##### Tips

###### OHCD Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

##### Wages

###### OHCD Policy

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

## CHAPTER 7

### 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

As with tip income, income from a business or from self-employment is often difficult to verify through a third party. Tax-related documents may be the best source of information; however, this is not anticipated income. Sometimes self-certification may be required. It is an even greater challenge if the business is new, since there will be not historical data to use as a basis for anticipating income. The PHA needs to have specific policies to business and self-employment income to assist staff in understanding what verification methods are to be used.

#### OHCD Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted, and the business owner or self-employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- The business owner/self-employed person will be required to maintain a record of income and expenses and submit the information requested and to certify to its accuracy at all future reexaminations.
- At any reexamination OHCD may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.
- If a family member has been self-employed less than three (3) months, OHCD will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months OHCD will require the family to provide documentation of income and expenses for this period and use that information to project income.
- If accelerated depreciation was used on the tax return or financial statement, and accountant's calculation of depreciation expenses, computed using straight-line depreciation rules.

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### 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

For policies governing streamlined income determination for fixed sources of income, please see Chapter 11.

#### **Social Security/SSI Benefits**

To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

##### OHCD Policy

**To verify the SS/SSI benefits of applicants,** OHCD will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), OHCD will help the applicant request a benefit verification letter from SSA's Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter, they will be required to provide it to OHCD.

**To verify the SS/SSI benefits of participants,** OHCD will obtain information about social security/SSI benefits through the HUD EIV System and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, OHCD will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) OHCD will help the participant request a benefit verification letter from SSA's web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter, they will be required to provide it to OHCD.

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### 7-III.D. ALIMONY OR CHILD SUPPORT

#### OHCD Policy

#### *Child Support*

OHCD will use a copy of the separation agreement, settlement agreement or a divorce decree stating the amount and type of support and payment schedule.

If the family reports they receive child support, but no agreements available the following methods of verification will be accepted:

- Copy of the receipts and/or payment stubs for the 60 days prior to OHCD request;
- Third-party verification form from the state or local child support enforcement agency;
- Third-party verification form from the person paying the support using OHCD form; or
- Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

#### *Alimony*

The way OHCD will seek verification for alimony differs depending on whether the family declares that it receives regular payments.

- A. If the family declares that it ***receives regular payments***, verification will be sought in the following order:
  - OHCD will use a copy of the separation agreement, settlement agreement or a divorce decree stating the amount and type of support and payment schedule.
  - Copy of the receipts and/or payment stubs for the 60 days prior to OHCD request;
  - Third-party verification form from the state or local agency;
  - Third-party verification form from the person paying the support using OHCD form; or
  - Family's self-certification of amount received and of the likelihood of support payments being received in the future or that support payments are not being received.
- B. If the family declares that it ***receives irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:
  - A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts; or

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- If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

*Note:* Families are not required to undertake independent enforcement action.

## CHAPTER 7

### 7-III.E. ASSETS AND INCOME FROM ASSETS

#### Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. OHCD needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

##### OHCD Policy

OHCD will verify the value of assets disposed of only if:

- OHCD does not already have a reasonable estimation of its value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and OHCD verified this amount. Now the person reports that she has given this \$10,000 to her son. OHCD has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, OHCD will verify the value of this asset.



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### 7-III.F. NET INCOME FROM RENTAL PROPERTY

#### OHCD Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current participant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, OHCD will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

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### 7-III.G. RETIREMENT ACCOUNTS

#### OHCD Policy

OHCD will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, OHCD will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, OHCD will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, OHCD will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

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### 7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-4].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion; PHAs have the option of requiring additional verification.

For particularly excluded income, the PHA **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

#### OHCD Policy

OHCD will accept the family's self-certification as verification of fully excluded income. OHCD may request additional documentation, if necessary, to document the income source. OHCD will verify the source and amount of partially excluded income as described in Part I of this chapter.

## CHAPTER 7

### 7-III.I. ZERO ANNUAL INCOME STATUS

#### OHCD Policy

OHCD will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income or TTP that is equal to or less than the minimum TTP (\$0).

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### 7-III.J. STUDENT FINANCIAL ASSISTANCE

Any financial assistance, in excess of amounts received for tuition, fees and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).

#### OHCD Policy

For a student subject to having a portion of **their** student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), OHCD will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, OHCD will request written verification of the student's tuition, fees and other required charges.

If OHCD is unable to obtain third-party written verification of the requested information, OHCD will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

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### 7-III.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from **their** parents in accordance with PHA policy [24 CFR 5.612 and FR 4/10/06, p. 18146].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### OHCD Policy

If OHCD is required to determine the income eligibility of a student's parents, OHCD will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). OHCD will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to OHCD. The required information must be submitted (postmarked) within 10 business days of the date of OHCD's request or within any extended timeframe approved by OHCD.

OHCD reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

## CHAPTER 7

### PART IV: VERIFYING MANDATORY DEDUCTIONS

#### 7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

##### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

##### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

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### 7-IV.B. MEDICAL EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### Amount of Expense

##### OHCD Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- OHCD will make a best effort to determine what expenses from the past are likely to continue to occur in the future. OHCD will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, OHCD must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

#### Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

#### Qualified Expenses

To be eligible for a medical expense deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for OHCD's policy on what counts as a medical expense.

#### Unreimbursed Expenses

To be eligible for a medical expense deduction, the costs must not be reimbursed by another source.



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### OHCD Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

#### OHCD Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, OHCD will verify:

- The anticipated repayment schedules
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years

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### 7-IV.C. DISABILITY ASSISTANCE EXPENSES

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

#### **Amount of Expense**

The deduction for disability assistance expenses covers both attendant care and auxiliary apparatus. Because one is a care provider and the other is generally a piece of equipment or the servicing of that equipment, the policy for verifying amount for attendant care will be somewhat different than for auxiliary apparatus. The PHA needs to provide guidance to staff as to how verification of each is to be handled. The standard verification policies found in Part I of this chapter apply to the verifications of disability assistance expenses.

#### *Attendant Care*

##### OHCD Policy

OHCD will accept written third-party documents provided by the family.

If family-provided documents are not available, OHCD will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

#### *Auxiliary Apparatus*

##### OHCD Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, OHCD must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).

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- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### OHCD Policy

OHCD will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.).

This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

#### OHCD Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

Families can claim as medical expenses the anticipated costs related to on-going payments of medical bills incurred in past years, if the same expenses have not been deducted in prior years. The PHA must provide guidance on how these expenses will be verified.

#### OHCD Policy

When anticipating costs are related to on-going payment of medical bills incurred in past years, OHCD will verify:

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The anticipated repayment schedules  
The amounts paid in the past, and  
Whether the amounts to be repaid have been deducted from the family's annual income in past years.

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### 7-IV.D. CHILD CARE EXPENSES

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

#### **Eligible Child**

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

#### **Unreimbursed Expense**

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

##### OHCD Policy

The family (and care provider) will be required to certify that the childcare expenses are not paid by or reimbursed to the family from any source.

#### **Pursuing an Eligible Activity**

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

##### OHCD Policy

##### *Information to be Gathered*

OHCD will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

##### *Seeking Work*

Whenever possible OHCD will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases OHCD will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to OHCD any reports provided to the other agency.

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In the event third-party verification is not available, OHCD will provide the family with a form on which the family member must record job search efforts. OHCD will review this information at each subsequent reexamination for which this deduction is claimed.

### *Furthering Education*

OHCD will request third-party documentation to verify that the person permitted to further **their** education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

### *Gainful Employment*

OHCD will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

## **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### OHCD Policy

OHCD will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

OHCD will verify that the fees paid to the childcare provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

OHCD will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

## **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

### OHCD Policy

The actual costs the family incurs will be compared with OHCD's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, OHCD will request additional documentation, as required, to support a determination that the higher cost is appropriate.

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<b>EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>	
<ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to OHCD.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>	
<b>Elderly Noncitizens</b>	
<input type="checkbox"/> A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.	
<b>All other Noncitizens</b>	
<input type="checkbox"/> Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.	
<ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following: <input type="checkbox"/> “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul>	<ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by:</li> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul>
<input type="checkbox"/> Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.	Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

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- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*



## CHAPTER 7

## Chapter 8

### HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507]

#### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have the option to inspect every unit annually. See Section 8-II. G for further details.

HUD also requires the PHA to determine that rents for units under the HCV program are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and the PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

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### PART I: PHYSICAL STANDARDS

#### 8-I.A. GENERAL HUD REQUIREMENTS HUD

##### Performance and Acceptability Standards

This paragraph list HUD's 13 acceptability standards and references two exhibits. Exhibit 8-1 provides a summary of the standards, and Exhibit 8-2 identifies areas of tenant preference. HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary facilities
- Food preparation and refuse disposal
- Space and Security
- Thermal Environment
- Illumination and electricity
- Structure and materials
- Interior Air Quality
- Water Supply
- Lead-based paint
- Access
- Site and neighborhood
- Sanitary condition
- Smoke Detectors

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

##### Participant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered participant preferences.

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### **Modifications to Provide Accessibility**

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the participant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the participant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31]. Any owner that intends to negotiate a restoration agreement or require escrow amounts must submit the agreement to OHCD for review.

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

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### 8-I.B. ADDITIONAL LOCAL REQUIREMENTS

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choice for families. HUD approval is required for variations to the HQS. HUD approval is not required if the PHA variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

#### OHCD Policy

#### **Four Things a Room MUST Have to be Considered a Bedroom:**

- **Entrance:** A bedroom needs at least two methods of egress, so it should be accessible from the house (commonly through a door), and then have one other exit (window or door).
- **Ceiling Height:** A bedroom ceiling needs to be at least 7 ft. tall. It is okay if some of portion of the ceiling are below this level, but at least 50% of the ceiling needs to be a minimum of 7 ft. in height. Most ceilings tend to be at least 8 ft. tall.
- **Escape:** A bedroom must have one other method of egress beyond the entrance point. A door to the exterior works as an exit point and so does a window. According to the International Residential Code, a bedroom window can be between 24 and 44 inches from the floor, it needs at least 5.7 square feet for the opening, and it must measure no less than 24 inches height and 20 inches wide.
- **Size:** The bedroom should be at least 70 sq. ft. and more specifically the room cannot be smaller than 4 feet in an horizontal direction.

**Walls** – In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced. Any exterior or interior services with peeling and chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material.

**Windows** – All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced. Windows must be weather stripped as needed to ensure a watertight seal. Window screens must be in good condition (applies only if screens are present). Any room for sleeping must have a window. In the absence of mechanical ventilation, insect screens for windows are required for natural ventilation.

**Doors** – All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold. All interior doors must have no holes, have all trim intact and be openable without the use of a key.

**Floors** – All wood floors must be a smooth surface and sealed. Re-secure any loose or warped boards and make level. If flooring cannot be leveled, they must be replaced. All floors must be in a finished state, no plywood. All floors should have some type of base shoe trim or sealing for a “finished look”. Vinyl base shoe is acceptable for kitchens and baths. Carpeting, vinyl or ceramic floor covering should not have rips, tears or broken tile due to trip hazard.

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**Sinks** – All sinks and commode water lines must have shut off valves, unless faucets are wall mounted. Toilet should fit securely to the floor. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid fit properly. There should be no signs of water leaks from pipes. All sinks must have functioning stoppers.

**Baths** – All baths must have sink and water closet, which operate properly. If the bath has a tub, the tub must have a stopper. All faucets must be operational without leaks.

**Bedrooms** – Bedrooms in basements or attics are not allowed unless they meet local code requirements (including window) and must have adequate ventilation and emergency exit capacity. Minimum bedroom ceiling height 7' 6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

**Security** – If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system. Owners are responsible for providing and replacing old batteries for battery powered smoke detectors. Tenants will be instructed not to tamper with smoke detectors or remove batteries. Smoke detectors are required on each floor. For properties with gas the owner is responsible to have carbon monoxide detectors on each floor with gas appliances (stove/heating system).

**Roof and Gutters** – Roof should not show signs of curling or missing shingles. If so roof needs to be patched or replaced. All gutters must be secured to the fascia board with down spouts away from the foundation of the house.

**Chipping or Peeling Paint** – If property shows signs of chipping and peeling paint the area must be repaired using "Safe Work Practices".

**Hot Water Heater** – Hot Water Heaters must be connected properly and sized based upon number of people in the unit.

But if you only need a loose estimate of what size you need (versus an exact calculation), follow these guidelines:

- For 1 to 2 people: 30-40 gallons
- For 2 to 3 people: 40-50 gallons
- For 3 to 4 people: 50-60 gallons
- For 5+ people: 60-80 gallons

The Temperature Pressure Relief (TPR) discharge pipe requirement is "no more than 6 inches but no less than 2 inches" from the floor. The piping is to be constructed of only 3 possible materials: copper, galvanized steel or CPVC (not standard PVC).

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### Prince William County Zoning Ordinances Section 32-300.13

The Prince William County Zoning Ordinance states:

- Properties can only have 1 kitchen unless a special permit was approved.
- There can be no more than 3 unrelated adults residing in a property.
- If room(s) or a basement is being rented the tenants must have access to the kitchen, laundry facility and full access to the entire property.
- No portion of a property being rented can be locked and/or separated for that tenant from the rest of the residents

In the event that a property violates this Zoning Ordinance the property is not eligible for consideration under the Housing Choice Voucher Program.

### Thermal Environment [HCV GB p.10-7]

The PHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

#### OHCD Policy

The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 1 and May 1.

### Clarifications of HUD Requirements

#### OHCD Policy

OHCD will follow its Housing Quality Standards manual (Exhibits 8-3 and 8-4) when performing inspections on assisted units.

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### 8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24-48 hours of the PHA notification.

#### OHCD Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Structural hazard including imminent structural collapse
- Natural or LP gas or fuel oil leaks
  - A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled
- Any electrical problem or condition that could result in shock or fire
  - A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed
  - A light fixture is hanging by its wires
  - A receptacle (outlet) or switch is missing or broken, and electrical connections or wires are exposed
  - An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses
  - A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections
  - Any nicks, abrasions, or fraying of the insulation that exposes conducting wire
  - Exposed bare wires or electrical connections
  - Any condition that results in openings in electrical panels or electrical control device enclosures
  - Water leaking or ponding near any electrical device
  - Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
- Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
- Utilities not in service, including no running hot water
- Conditions that present the imminent possibility of injury
- Obstacles that prevent safe entrance or exit from the unit
  - The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency
- Absence of a functioning toilet in the unit
- Non-Operational Refrigerator/Freezer
- Missing or inoperable smoke detectors



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- Missing or inoperable carbon monoxide detector
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required)
- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting
  - The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases
  - A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside
  - A fuel-fired space heater is not properly vented or lacks available combustion air
  - A non-vented space heater is present
  - Safety devices on a fuel-fired space heater are missing or damaged
  - The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas
- Deteriorating paint as defined at 24 CFR 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six year of age if it would prevent the family from moving into the unit
- Open sewage in the unit
- Severely broken windowpanes that are within the reach of family members

If an owner fails to correct life-threatening conditions as required by OHCD, OHCD will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family caused life threatening condition as required by OHCD, OHCD will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector and/or carbon monoxide detectors unless OHCD determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector and/or carbon monoxide detectors within **24-48** hours.

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### **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

#### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Participant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family.
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the participant's security deposit under state law or court practice.

#### **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

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### **8-I.E. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD-LEAD LEVEL (EBLL) [24 CFR 35.1225; FR Notice 1/13/17, Notice PIH 2017-13]**

If the PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six (6) years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330, 40 CFR 745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

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### 8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets).

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

#### OHCD Policy

Reasonable Accommodation: Annual requirement to verify use of extra bedroom. If a family member has been approved for an extra bedroom as a Reasonable Accommodation for Medical equipment; Separate sleeping room for the person with a disability; or a live-in aide, OHCD will verify at each inspection whether or not the extra bedroom is being utilized as approved in the reasonable accommodation.

Examples of improper use of the extra bedroom include but are not limited to:

- size of equipment does not warrant an extra bedroom
- no medical equipment present in the extra bedroom
- bedroom not utilized as a bedroom for live in aide
- bedroom not utilized as a bedroom for the person with a disability

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### PART II: THE INSPECTION PROCESS

#### 8-II.A. OVERVIEW [24 CFR 982.405]

##### Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection on or before the effective date of the HAP Contract.
- *Annual/Biennial Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections.* HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

##### Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or re-inspections [24 CFR 982.405(e)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for re-inspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

##### OHCD Policy

OHCD will not charge a fee for failed re-inspections.

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### **Remote-Video Inspections (RVIs) [Notice PIH 2020-31]**

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

#### OHCD Policy

The OHCD will not conduct any HQS inspection using RVI.

### **Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)].

#### OHCD Policy

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, OHCD will give as much notice as possible, given the nature of the emergency.

### **Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

#### OHCD Policy

When a family occupies the unit at the time of inspection, an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, OHCD will inspect the unit in the presence of the owner, or owner's representative. If the owner is not available for the inspection or a representative, the owner can grant permission for OHCD to inspect the unit by providing the "lock box" key code. The presence of a family representative is permitted but is not required.

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### 8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

#### Timing of Initial Inspections

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

#### OHCD Policy

OHCD will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

OHCD will not approve assisted tenancy and start HAP until the unit passes HQS inspection. OHCD will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner.

If an RTA has been received for a unit and the unit is not ready for inspection within 15 calendar days, OHCD will deny the RTA.

#### Inspection Results and Re-inspections

#### OHCD Policy

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by OHCD for good cause. OHCD will re-inspect the unit within five business days of the date the owner/tenant notifies OHCD that the required corrections have been made. **In the event that the owner/tenant disagrees on whether the corrections have been completed OHCD must make an onsite inspection.**

If the time period for correcting the deficiencies (or any OHCD-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, OHCD will notify the owner and the family that the unit has been rejected and that the family must search for another unit. OHCD may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval (HUD 52517) after the owner has made repairs if they are unable to locate another suitable unit.

#### Utilities

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. Especially

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when a unit may have been vacant for some time, the owner may not want to put utilities back online until it is clear that the PHA will otherwise accept the unit into the program. For this reason, some PHAs are willing to inspect the unit for all other standards and make a subsequent inspection to confirm that utilities are in working order.

### OHCD Policy

All utilities must be in service for testing at the time of the initial inspection. If utilities are not in service at the time of initial inspection, the OHCD inspector must re-inspect the unit to confirm that utilities are operational before the HAP contract is executed by OHCD.

## **Appliances**

### OHCD Policy

If the family is responsible for supplying the stove and/or refrigerator, OHCD will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by OHCD. OHCD will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within 30 days of HAP contract approval.



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### **8-II.C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405; and 982.406; PIH Notice 2016-5]**

Effective July 1, 2014, PHAs may establish a policy for performing unit inspections biennially rather than annually. This policy could apply to some or all assisted units. PHAs still have option to inspect every unit annually.

#### OHCD Policy

An HQS inspection may be conducted every other year (within a 24-month period), dependent on the following general criteria:

- If the unit successfully passed the prior year's HQS inspection,
- If the landlord and/or tenant has not requested an Special or Emergency HQS inspection to be done since the last required HQS inspection, and
- If there have been no HQS complaints about the unit from the tenant.
- Adherence to HUD policy for SEMAP review of HQS inspections

The option to perform biennial inspections applies only to assisted units during the term of a HAP annual renewal contract and not to an Initial or Relocation HQS inspection. OHCD must still perform a HQS inspection prior to executing an initial HAP contract, and on an interim basis when requested by a family or government official. For units which have been HQS inspected within the last 12 months, OHCD may re-inspect within 24 months of the most recent inspection. For units which have not been HQS inspected within the past 12 months, OHCD must conduct an annual inspection and may then schedule the next inspection within 24 months. OHCD will use the results of previous inspections to make a determination whether an inspection will be completed every 12 months or every 24 months.

This new Biennial Inspections policy is aligned with HUD's regulations and goal to using affordable housing as a platform for demonstrating optimal government program service delivery.

#### **Qualified Units Criteria (for Biennial HQS Inspection)**

OHCD will use the following criteria when selecting "qualified units" for either "Annual" (within 12 months) or "Biennial" (within 24 months) HQS (Housing Quality Standards) Inspections for any housing unit on the Housing Choice Voucher program:

#### ***For Prior HQS Annual Inspections***

- For any unit that PASSED a prior year HQS Annual Inspection, ON THE FIRST VISIT, this unit may be shifted to a "BIENNIAL" HQS INSPECTION"
- For any unit that FAILED a prior year HQS Annual Inspection ON THE FIRST VISIT WITH 0 – 10 (ZERO TO TEN) FAIL ITEMS but PASSED WITHIN 30

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DAYS OF THE INSPECTION DATE, this unit may be shifted to a “BIENNIAL” HQS INSPECTION”

- For any unit that FAILED a prior year Annual Inspection ON THE FIRST VISIT WITH 11 (ELEVEN) or MORE FAIL ITEMS, this unit must have an “ANNUAL” HQS INSPECTION”

### *For Prior HQS Initial Inspections*

- For any unit that PASSED a prior year Initial Inspection ON THE FIRST VISIT, this unit may be shifted to a “BIENNIAL” HQS INSPECTION”
- •For any unit that FAILED a prior year Initial Inspection ON THE FIRST VISIT WITH 0 – 10 (ZERO TO TEN) FAIL ITEMS but PASSED AN INITIAL REINSPECTION WITHIN 14 DAYS OF THE FIRST VISIT, this unit may be shifted to a “BIENNIAL” HQS INSPECTION”
- •For any unit that FAILED a prior year Initial Inspection ON THE FIRST VISIT WITH 11 (ELEVEN) or MORE FAIL ITEMS, this unit must have an “ANNUAL” HQS INSPECTION” the following year regardless of whether the unit passed the required INITIAL REINSPECTION OF THE 11 (ELEVEN) or MORE FAIL ITEMS

### **Scheduling the Inspection**

#### OHCD Policy

If an adult cannot be present on the scheduled date, the family should request that OHCD reschedule the inspection. OHCD and family will agree on a new inspection date that generally should take place within five (5) business days of the originally scheduled date. OHCD may schedule an inspection more than five (5) business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, OHCD will automatically schedule a second inspection. If the family misses two scheduled inspections without OHCD approval, OHCD will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family’s assistance in accordance with Chapter 12.

OHCD will not accept the result of inspections performed by HUD or for the HOME or LIHTC programs.

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### 8-II.D. SPECIAL INSPECTIONS [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition in which the owner would be required to repair within 24-48 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

#### OHCD Policy

In the case of life-threatening conditions, OHCD will contact the owner/agent and family by phone to schedule and conduct a special inspection within 24-48 hours from receiving notification of the life-threatening condition.

In the case of non-life-threatening conditions, OHCD will contact the owner/agent and family by phone to schedule a special inspection within two (2) business days, from receiving notification of the non-life-threatening condition. OHCD will conduct the special inspection within five (5) business days from the date of the request for an inspection. If the unit fails inspection, a reinspection will be scheduled for 30-days from the failed inspection letter date.

During a special inspection, OHCD generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled, OHCD may elect to conduct a full annual/biennial inspection.

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### 8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 985.3e); HCV GB, p. 10-32]

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspections.

#### OHCD Policy

The minimum number of annual-required quality control inspections is calculated based on OHCD's total baseline voucher count, which is calculated using the following methodology.

<b>Total Baseline Voucher Count</b>	<b>Minimum Number of Files or Records to be Sampled</b>
50 or less	5
51-600	5 plus 1 for each 50 (or part of 50) over 50
601-2,000	16 plus 1 for each 100 (or part of 100) over 600
Over 2,000	30 plus 1 for each 200 (or part of 200) over 2,000

Based on OHCD's baseline voucher count, the number of annual quality control inspections will be calculated using the over 601-2,000 baseline voucher count formula [HCV GB, p. 10-32].

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### 8-II.F. INSPECTION RESULTS AND RE-INSPECTIONS FOR UNITS UNDER HAP CONTRACT

#### Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

#### OHCD Policy

When life-threatening conditions are identified, OHCD will immediately notify both parties by telephone, and email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within **24-48 hours** of OHCD's notice,

or;

When failures that are not life-threatening are identified, OHCD will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. **Corrections must be completed within 30 days from the date of the inspection letter.**

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within **24-48 hours**, and non-life-threatening conditions are not corrected within the specified time frame (or any OHCD-approved extension), the owner's HAP will be abated in accordance with OHCD policy (see 8-II.G.). Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any OHCD-approved extension, if applicable) the family's assistance will be terminated in accordance with OHCD policy (see Chapter 12).

#### Extensions

For conditions that are life-threatening, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

#### OHCD Policy

Extensions will be granted **up to 48 hours** in cases where OHCD has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.

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- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days once the weather conditions have subsided. (NOTE: Generally, for winter delays, repairs must be completed no later than June 15<sup>th</sup>.)

### Re-inspections

#### OHCD Policy

OHCD will conduct a re-inspection by the end of the corrective period, or any OHCD approved extension. The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, OHCD will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with OHCD policies.

If OHCD is unable to gain entry to the unit in order to conduct the scheduled inspection, OHCD will allow the re-inspection to be rescheduled once. If OHCD is unable to gain entry to the unit in order to conduct the rescheduled inspection, OHCD will consider the family to have violated its obligation to make the unit available for reinspection. This may result in termination of the family's assistance in accordance with Chapter 12.

OHCD will accept photos from the owner to document specific HQS deficiency repairs identified on the inspection form. OHCD will determine if submitted photo is acceptable for verification of corrected deficiency.

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### 8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

#### HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by the PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

#### OHCD Policy

OHCD will make all HAP abatements effective the first of the month following the expiration of OHCD specified correction period (including any extension).

OHCD will inspect abated units within five (5) business days of the owner's notification that the work has been completed.

If the owner/agent corrects identified deficiencies and the unit passes HQS inspection prior to the first of the month or abatement effective date, the abatement action will be canceled and OHCD will reinstate HAP payments on the day the owner complies.

Following a failure to comply with notice of deficiency owners are not entitled to HAP payments from the first of the month following the expiration of the specified correction period (including any approved extensions) until the day the unit passes HQS. OHCD will abate the monthly HAP for a period not to exceed 60 calendar days. If the owner/agent corrects the deficiencies and schedules the re-inspection with OHCD, they will remove the abatement for the remaining months of the HAP contract after verifying the deficiencies have been corrected. For each day the required repairs are not completed during the abatement period, the owner/agent will not receive retroactive payment. As part of the failed reinspection and abatement process, a tenant will be offered a voucher to move to a new unit.

During the abatement period, the family has the option to remain in the unit through the 60-day abatement period and will continue to be responsible for its share of the rent. Or, the family can request a voucher to move. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction. If the tenant chooses to reside in the unit passed the 60-day abatement period, the tenant will be responsible for the unit's full contract rent.

Payment will resume effective on the day the unit passes inspection.

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### **Moves during Abatement**

In order to move with continued assistance during the abatement period, the participant must provide to both OHCD and the owner either:

- A signed Mutual Lease Termination if they are in their initial lease term; or
- Written 30-day notice if currently under a month-to-month lease and must be in Good Standing.

During any abatement period the participant continues to be responsible for its share of the rent. The owner must not seek payment from the participant for abated amounts and may not use the abatement as cause for eviction.

### **HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

### **OHCD Policy**

The maximum length of time that HAP may be abated is 60 calendar days from the abatement effective date, which starts on the first of the month following the first failed reinspection. However, if the owner/agent completes corrections and notifies the PHA before the 60-day termination of the HAP contract, OHCD may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

If the owner/agent fails to correct the deficiencies, the HAP contract will be terminated at the end of the 60-day abatement period. OHCD will give the tenant and owner/agent a reasonable notice of HAP contract termination of at least 30 days prior to the HAP termination effective date. Should the family remain in the unit beyond the HAP termination effective date, the family will be responsible for the unit's full rent.

Exceptions to this policy will be considered as a reasonable accommodation.



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### **8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

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### **PART III: RENT REASONABLENESS [24 CFR 982.507]**

#### **8-III.A. OVERVIEW**

No HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

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### 8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

#### Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA will assist the family with the negotiations upon request. At initial occupancy the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

#### OHCD Policy

For rent reasonableness, property evaluations are based upon the number of bedrooms, baths and square footage on the County Assessment. If the owner has made alterations to the property such as finishing a basement or adding an additional bath if permits are pulled, then the additional bedrooms and baths ~~are not~~ reflected on County Assessment. **Therefore, if the owner provides a copy of the required building permit(s) along with the final inspections through Prince William County Planning Division which identifies and includes additional bedroom(s), bathroom(s) an/or finished living area then the additional rooms as as identified and approved will be considered when evaluating rent reasonableness. (Clarification March 30, 2023)**

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, OHCD may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises OHCD will consider unit size and length of tenancy in the other units.

OHCD will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination.

All rent adjustments will be effective the first of the month following 60 days' after OHCD's receipt of the owner's request or on the date specified by the owner, whichever is later.

#### PHA and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the Fair Market Rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

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### OHCD Policy

In addition to the instances described above, OHCD will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) OHCD determines that the initial rent reasonableness determination was in error or (2) OHCD determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

### **LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)]**

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance. For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

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### 8-III.C. HOW COMPARABILITY IS ESTABLISHED

#### Factors to Consider

HUD requires the PHA to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent.

#### Units that Must Not be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20 and Notice PIH 2020-19].

**Note:** PIH Notice 2020-19 issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

#### Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than 4 units.

By accepting the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

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### 8-III.D. PHA RENT REASONABLENESS METHODOLOGY

HUD requires the PHA to describe its methodology for making rent reasonableness determinations. Section 8-II. D is intended to be that description. The PHA should describe three aspects of the methodology: (1) how the PHA collects market data, (2) how the PHA uses the information collected and (3) how negotiations with owners will be handled. Each of these is discussed below.

#### How Market Data Is Collected

##### OHCD Policy

OHCD will collect and maintain data on market rents in OHCD's jurisdiction. Information sources include MRIS, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than 12 months old will be eliminated from the database.

#### How Rents Are Determined

##### OHCD Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. Typically, units may be similar, but not exactly like the unit proposed for HCV assistance. Therefore, OHCD may make upward and downward dollar adjustments for differences between the proposed HCV unit and the comparable to determine the reasonable rent for the HCV unit.

The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence of absence of a garbage disposal may not affect the rent in some market areas). In comparing rents, OHCD will take into account critical market factors that impact rent, including the location, quality, size, unit type and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

The adjustment must reflect the rental value of the difference – not its construction costs (e.g., it might cost \$20,000 to put on a new roof, but the new room might not make any difference in what a tenant would be willing to pay because rental units are presumed to have a functioning roof).

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When a comparable project offers rent concessions (e.g., first month rent free or reduced rent) the concession is allocated over a 12-months and subtracted from the monthly rent to arrive at a true base rent. For example, if a comparable project reports rent of \$500/month, but new tenants receive the first month's rent free, the actual rent for the unit would be calculate as follows:  $\$500 - (\$500/12) = \text{actual monthly rent of } \$458$ .

The OHCD will notify the owner of the rent OHCD can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. OHCD will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within 5 business days of the OHCD's request for information or the owner's request to submit information.

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### EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS

Note: This document provides an overview of HQS. For more detailed information see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

#### **Sanitary Facilities**

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

#### Acceptability Criteria •

- The bathroom must be located in a separate room and have a flush toilet in proper operating condition.
- The unit must have a fixed basin (lavatory) with a sink trap and hot and cold running water in proper operating condition.
- The unit must have a shower or tub with hot and cold running water in proper operating condition.
- The facilities must utilize an approved public or private disposal system, including a locally approved septic system. The bathroom must be contained within the dwelling unit, afford privacy (usually meaning a door, although no lock is required), and be for the exclusive use of the occupants. All public or private waste disposal systems servicing the unit or facilities must be either state or local agency approved. The tub/shower, toilet, and basin/lavatory must have a proper sewer trap, drain, and vents to prevent the escape of sewer gases or severe leakage of water. Drains must not be clogged, and the toilet must flush. Hot and cold water must be available at the tub, shower, and lavatory taps. The definition of hot water (temperature) required at the lavatory, tub, or shower should be determined from local health standards or applicable local code



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### **Food Preparation and Refuse Disposal**

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

#### Acceptable Criteria

- The dwelling unit must have an oven and a stove or range. A microwave oven may be substituted for a tenant-supplied oven and stove or range. A microwave may be substituted for an owner-supplied oven and stove or range if the tenant agrees and microwave ovens are furnished to both subsidized and unsubsidized tenants in the same building or premises.
- The dwelling unit must have a refrigerator of appropriate size for the family.
- All required equipment must be in proper operating condition. According to the lease, equipment may be supplied by either the owner or the family.
- The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approved public or private system.
- The dwelling unit must have space for storage, preparation, and serving of food.
- Facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary, are required.

Hot plates are not acceptable substitutes for stoves or ranges. The oven must heat and all burners on the stove or range must work. All stove or range knobs must be present. The stove or range must be free of hazardous gas hook-ups, gas leaks, or electrical hazards.

The refrigerator must be of adequate size for the family and capable of maintaining a temperature low enough to keep food from spoiling (Above 32° F, but generally below 40° F).

The sink must have hot and cold running water from the faucets and a proper working sink drain with gas trap. It must also be hooked to an approved water and sewer system. The definition of hot water should be determined by the local health department or applicable local code.

Space for storage, preparation, and serving of food must be present. Built-in space, equipment, table(s), or portable storage facilities are acceptable. Waste and refuse storage facilities are determined by local practice and may include trash cans or dumpster facilities.

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### Space and Security

The dwelling unit must provide adequate space and security for the family. This includes having at least one bedroom or living/sleeping room for each two persons. All doors and windows must lock.

#### Acceptability Criteria

- At a minimum, the dwelling unit must have a living room, a kitchen and a bathroom
- The dwelling unit must have a least one bedroom or living/sleeping room for every two persons.
- Dwelling unit windows that are accessible from the outside must be lockable.
- Exterior doors to the unit must be lockable.
- A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space.
- Unit windows located on the first floor, at the basement level, on a fire escape, porch, or other outside space that can be reached from the ground and that are designed to be opened must have a locking device. (Windows with sills less than six feet off the ground are considered accessible.) Traditional window locks, those provided by storm/screen combination windows, window pins are acceptable. Windows leading to a fire escape or required to meet ventilation requirements may not be permanently nailed shut.
- Doors leading to the outside and common hallways, fire escapes, and porches or otherwise accessible from the ground must have locks. No specific type of lock is required.
- Window and door surfaces (including the door frame) must be in sufficient condition to support the installation and proper operation of window and door locks.

### Thermal Environment

The unit must have a safe system for heating and cooling the dwelling unit. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

#### Acceptability Criteria

- There must be a safe system for heating the dwelling unit, such as electric baseboard, radiator, or forced air systems. In order to ensure a healthy living environment appropriate for the climate the system must be able to provide adequate heat either directly or indirectly to each room.
- If present, the air conditioning system or evaporative cooler, must safely provide adequate cooling to each room.
- The heating and/or air conditioning system must be in proper operating condition.
- The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene.

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- A heating system capable of maintaining an interior temperature of 65° between October 1 and May 1 is adequate. Adequate heat is required in all rooms used for living; the heat source does not have to be located in each room as long as the heat can pass to the appropriate space and meet the definition of adequate. Improper operating conditions, including all conditions that may be unsafe, such as broken or damaged source vents, flues, exhausts, gas or oil lines that create a potential fire hazard or threats to health and safety are not permitted. Heating unit safety devices must be present, and the heating equipment must have proper clearance from combustible materials and location of oil storage tanks. There must be proper gas and oil connections.

### **Illumination and Electricity**

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference.

#### Acceptability Criteria

- There must be at least one window in both the living room and each sleeping room.
- The kitchen area and the bathroom must have a permanent ceiling or wall-mounted fixture in proper operating condition.
- The kitchen must have at least one electrical outlet in proper operating condition.
- The living room and each sleeping space must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets. OHCD must be satisfied that the electrical system is free of hazardous conditions, including exposed, uninsulated, or frayed wires, improper connections, improper insulation or grounding of any component of the system, overloading of capacity, or wires lying in or located near standing water or other unsafe places.
- Outlets must be properly installed in the baseboard, wall, or floor. Hanging light fixtures or outlets from electric wiring, missing cover plates on switches and outlets, badly cracked outlets or cover plates, exposed fuse box connections and, overloaded circuits are unacceptable.

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### Structure and Materials

The dwelling unit must be structurally sound. Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

#### Acceptability Criteria

- Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
- The roof must be structurally sound and weather-proof.
- The foundation and exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
- The condition and equipment of interior and exterior stairs, halls, porches, and walkways must not present the danger of tripping and falling.
- Elevators must be working safely.

OHCD must examine each of the elements listed in the acceptability criteria to determine that each is structurally sound, will not collapse, and does not present a danger to residents through falling or missing parts, or tripping hazards. OHCD must determine that the unit is free from water, excessive air, and vermin infiltration.

Handrails are required when four or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty inches off the ground.

The elevator servicing the unit must be working. A current county or state inspection certificate suffices to determine working condition of the elevator.

Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area.

### Interior Air Quality

The dwelling unit must be free of air pollutant levels that threaten the occupants' health. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one openable window or other adequate ventilation. Any sleeping room must have at least one window. If a window was designed to be opened, it must be in proper working order.

#### Acceptability Criteria

- The dwelling unit must be free from dangerous air pollution levels from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
- There must be adequate air circulation in the dwelling unit.
- Bathroom areas must have one openable window or other adequate ventilation.

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- Any sleeping room must have at least one window. If the window was designed to be opened, it must be in proper working order.

OHCD must be satisfied that air pollutants such as gas leaks, industrial outputs, and heavy traffic would not present a health hazard. Air circulation should be checked to determine adequate ventilation. Air conditioning (A/C) provides adequate circulation as do ceiling and vent fans.

The windows must adequately protect the unit's interior from the weather. Windows designed to open must not be painted or nailed shut. The ventilating bathroom fan in the bathroom must operate as intended.

### **Water Supply**

The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety.

### Acceptability Criteria

- The dwelling unit must be served by an approved public or private water supply that is sanitary and free from contamination. OHCD should be satisfied that the water supply is approved by the State or local jurisdiction.
- Clean water must be distributed to all unit fixtures and wastewater must leave the unit to an approved area without presence of sewer gas and backups.
- Plumbing fixtures and pipes must be free of leaks and threats to health and safety.
- Water-heating equipment must be installed safely and must not any present safety hazards to families. All water heaters must be free of leaks, have temperature/pressure relief valves, and a discharge line. Unless safety dividers or shields are installed water heaters must not be located in bedrooms or living areas where safety hazards may exist. Fuel burning equipment must have proper clearance from combustible materials and be properly vented.

### **Lead-Based Paint**

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed,
- Provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities when identified by the OHCD
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance, ask each family to report deteriorated paint
- Maintain covered housing without deteriorated paint if there is a child under six in family.

## Chapter 8

For units occupied by elevated blood lead level (lead poisoned) children under six years of age, an environmental investigation must be conducted (paid for by the OHCD). If lead hazards are identified during the environmental investigation, the owner must complete hazard reduction activities.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint, requirements see 24 CFR 35, Subparts A, B, M, and R.

### Acceptability Criteria

- The requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children under six years of age, excluding zero-bedroom dwellings.
- During initial and annual inspections of pre-1978 units that are occupied or will be occupied by families with children under 6 years of age, the inspector must conduct a visual assessment for deteriorated paint surfaces and the owner must stabilize deteriorated surfaces. Applicable areas include painted surfaces within the dwelling unit, exterior painted surfaces associated with the dwelling unit, and common areas of the building through which residents must pass to gain access to the unit and areas frequented by resident children under six years of age, including play areas and childcare facilities.
- For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by OHCD), and the owner must complete hazard reduction activities if lead hazards are identified during the risk assessment

### **Access**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire.

### Acceptability Criteria

- The unit must have private access.
- In case of fire, the building must contain an alternate means of exit such as fire stairs, or windows, including use of a ladder for windows above the second floor. OHCD must determine that the unit has private access without unauthorized passage through another dwelling unit or private property.
- The emergency (alternate) exit from the building (not the unit) may consist of fire stairs, a second door, fire ladders, or exit through windows. The emergency exit must not be blocked. It must be appropriate for the family and considered adequate by local officials. Guidance from the local fire agency is advisable.

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### Site and Neighborhood

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants.

#### Acceptability Criteria

- The site and neighborhood may not be subject to serious adverse natural or manmade environmental conditions, such as dangerous walks or steps, instability, flooding, poor drainage, septic tank back-ups or sewer hazards, mudslides, abnormal air pollution, smoke or dust, excessive noise, vibration, or vehicular traffic, excessive accumulations of trash, vermin, or rodent infestation, or fire hazards.
- OHCD determines whether any of the above conditions seriously and continually affect the health or safety of the residents. PHAs should be careful not to restrict housing choice in deciding acceptability. Failing a unit because the neighborhood is considered “bad” is not appropriate. Take into account whether private unassisted residents are living in the same neighborhood.

### Sanitary Condition

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

#### Acceptability Criteria

- The dwelling unit and its equipment must be free of vermin and rodent infestation.
- OHCD must ensure that the unit is free of rodents and heavy accumulations of trash, garbage, or other debris that may harbor vermin. Infestation by mice, roaches, or other vermin particular to the climate must also be considered. The unit must have adequate barriers to prevent infestation.

What is infestation of rodents or vermin? • By definition infestation means more than one bug or mouse. It is easily identified by observing mouse and/or rodent droppings or gnaw marks. If no visible evidence exists, there is probably no infestation. Based on the type of pest, OHCD must decide what the limits are for determining infestation and be consistent. Is one rat or roach too much?

## Chapter 8

### **Smoke and Carbon Monoxide Detectors**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).

Carbon Monoxide detectors is a device that detects the presence of the carbon monoxide (CO) gas in order to prevent carbon monoxide poisoning. CO detectors are designed to measure CO levels over time and sound an alarm before dangerous levels of CO accumulate in an environment, giving people adequate warning to safely ventilate the area or evacuate. Some system-connected detectors also alert a monitoring service that can dispatch emergency services if necessary.

Every home with at least one fuel-burning appliance/heater, attached garage or fireplace should have a carbon monoxide alarm. If the home has only one carbon monoxide alarm, it should be installed in the main bedroom or in the hallway outside of the sleeping area. An alarm should be installed on every level of the home and in sleeping areas.

#### Acceptability Criteria

- OHCD must ensure that the location of smoke detectors conforms with local and/or State Fire Marshall's requirements. OHCD must determine that smoke detectors are located and installed in accordance with NFPA Standards. All smoke detectors must be in operating condition.
- Local codes, such as housing or fire codes, often address responsibilities between owners and tenants for installation and maintenance of smoke detector batteries. At initial, inspection smoke detectors must have good batteries and be operable. OHCD must follow local codes to determine if missing or dead smoke detector batteries constitute a tenant or owner-caused failure in occupied units.
- Consultation with the local fire officials is recommended regarding acceptable types and location of smoke detectors

### **Hazards and Health/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.



## Chapter 8

### EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

## Chapter 8

- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present, they must be in good condition.
- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

## Chapter 8

## CHAPTER 9

### GENERAL LEASING POLICIES

#### INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the PHA to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

## CHAPTER 9

### 9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See

Chapter 3 for a discussion of the PHA's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before the PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of **their** rights and obligations under the Violence against Women Act of 2013 (VAWA)[24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in PHA records); and the name and address (if known to PHA) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

The PHA may not disclose to the owner any confidential information provided by the family in response to a PHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(b)(4)].

#### OHCD Policy

OHCD will not screen applicants for family behavior or suitability for tenancy.

OHCD will not provide additional screening information to the owner.

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### 9-I.B. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the participant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

#### OHCD Policy

The RFTA must be signed by both the family and the owner. The effective date of the lease will be determined upon OHCD approval of the dwelling unit. The lease shall otherwise be completed, but not signed by the participant or owner.

The owner may submit the RFTA on behalf of the family.

Completed RFTA (including the proposed dwelling lease) must be submitted as hard copies: in-person, mail, email or by fax. The family may not submit, and OHCD will not process, more than one (1) RFTA at a time or more than one (1) RFTA per family.

When the family submits the RFTA, OHCD will review the RFTA for completeness.

## CHAPTER 9

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA, OHCD will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as hard copies, in-person, mail, email or by fax.

**For any landlord provided utilities the landlord must provide verification that the identified utility(s) are in the name of the landlord.**

When the family submits the RFTA and proposed lease, OHCD will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, OHCD will notify the family and the owner of the discrepancies.

Corrections to the terms of the RTA and/or the proposed lease will only be accepted by hard copies, in-person, mail, email or by fax. OHCD will not accept corrections by phone.

## CHAPTER 9

### 9-I.C. OWNER PARTICIPATION

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.



## CHAPTER 9

### 9-I.D. ELIGIBLE UNITS

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

#### **Ineligible Units [24 CFR 982.352(a)]**

The PHA may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

#### **PHA-Owned Units [24 CFR 982.352(b)]**

Otherwise, eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

##### OHCD Policy

OHCD does not have any eligible PHA-owned units available for leasing under the voucher program.

#### **Special Housing Types [24 CFR 982 Subpart M]**

HUD regulations permit, but do not generally require, the PHA to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the PHA has chosen to allow.

The regulations do require the PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

## CHAPTER 9

### **Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

### **Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

### **Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

## CHAPTER 9

### **Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

### **Rent Burden [24 CFR 982.508]**

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

## CHAPTER 9

### 9-I.E. LEASE AND TENANCY ADDENDUM

The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the participant family and the owner; the PHA is not a party to this contract.

The participant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the participant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

#### **Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the participant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

#### OHCD Policy

OHCD does not provide a model or standard dwelling lease for owners to use in the HCV program.

#### **Lease Information [24 CFR 982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the participant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

## CHAPTER 9

### **Term of Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the PHA to approve a shorter initial lease term if certain conditions are met.

#### OHCD Policy

The OHCD will not approve an initial lease term of less than one (1) year and will not approve an initial lease term of greater than 12 months.

During the initial term of the lease, the owner may not raise the rent to tenant [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

OHCD may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

### **Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

#### OHCD Policy

OHCD will allow the owner to collect security deposit in accordance with state law. Therefore, no modifications to the HAP contract will be necessary.

**Landlords may charge security deposits not to exceed the State standard of no more than two months of contract rent. This charge is the responsibility of the Participant. In the event that the issued Voucher has a provision for the payment of a security deposit for rent, OHCD will issue payment directly to the Landlord. Following termination of the lease, damage to the unit or premises caused by a household member or guest beyond normal wear and tear will result in the use of the security deposit to cover said damages. Any remaining security deposit, whether paid by OHCD or the Participant will be returned to the Participant. "Normal wear and tear" are defined as items which could not be charged against the participant's security deposit under state law or court practice.**

## CHAPTER 9

### **Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the participant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

#### OHCD Policy

OHCD permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

## CHAPTER 9

### PHA Review of Lease

The PHA will review the dwelling lease for compliance with all applicable requirements.

#### OHCD Policy

If the dwelling lease is incomplete or incorrect, OHCD will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, email or by fax. OHCD will not accept missing and corrected information over the phone

Owners will be encouraged to screen families based on their tenancy history. An owner may consider a family's background with respect to such factors as:

1. Payment or rent and utility bills;
2. Caring for a unit and premises;
3. Respecting the rights of others to the peaceful enjoyment of their housing;
4. Drug-related criminal activity or other criminal activity that is a threat to the life, safety, or property of others; and
5. Compliance with other essential conditions of tenancy.

Because the initial leasing process is time sensitive, OHCD will attempt to communicate with the owner and family by phone, fax, or email. OHCD will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

#### OHCD Policy

OHCD will not review the owner's lease for compliance with state/local law.

## CHAPTER 9

### 9-I.F. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must be reasonable; where the family is initially leasing a unit and the gross rent of the unit does not exceed the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

#### OHCD Policy

OHCD will complete its determination within 10 business days of receiving all required information and communicate the determination to the owner and family by phone, fax, or e-mail. OHCD will use mail when the parties cannot be reached by phone, fax or e-mail.

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with OHCD, OHCD will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will only be accepted as hard copies, in person, mail, email or by fax. OHCD will not accept corrections over the phone. If OHCD determines that the tenancy cannot be approved for any reason, the owner and the family will be notified by phone, fax, e-mail or fax and given the opportunity to address any reasons for disapproval. OHCD will use mail when the parties cannot be reached by phone, fax or e-mail. OHCD will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability or rent reasonableness, OHCD will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.



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### 9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

The PHA must make a best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract **must** be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the PHA may not pay any housing assistance payment to the owner.

#### OHCD Policy

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to OHCD. The owner will retain the original lease and will ensure that the assisted family receives a copy of the dwelling lease.

The owner and OHCD will execute the HAP contract. OHCD will not execute the HAP contract until the owner has submitted IRS form W-9 and registered as a vendor with Prince William County through I-Supplier. OHCD will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA 2013, once the HAP contract and lease have been executed and the family has been admitted to the program, OHCD will notify the family of their rights under VAWA by providing the family with a copy of the domestic violence

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certification form (HUD-5382) as well as VAWA notice of occupancy rights (form HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

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### 9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the participant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing participant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease [rules governing the contract per HUD e-mail clarification dated 10-17-19].
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the PHA at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

#### OHCD Policy

Where the owner is requesting a rent increase, OHCD will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination. New HAP contracts and leases will be prepared and signed if applicable.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies OHCD of the rent change or on the date specified by the owner, whichever is later.

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### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

#### INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

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### PART I: MOVING WITH CONTINUED ASSISTANCE

#### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance in the housing choice voucher (HCV) program. These conditions apply to all moves by participant families, whether they occur within a PHAs jurisdiction or outside it under portability. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.354(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

#### OHCD Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give OHCD a copy of the termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.354(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.354(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that **they were** imminently threatened by harm from further violence if **they** remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

#### OHCD Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by OHCD based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, OHCD will request that the resident request the emergency transfer using form HUD-5383 and OHCD will request documentation in accordance with section 16-IX.D of this plan.

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OHCD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases OHCD will document the waiver in the family's file.

OHCD may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, OHCD will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

OHCD has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.

- The PHA has terminated the HAP Contract for the family's unit for the owner's breach [24 CFR 982.354(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

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### 10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

#### **Denial of Moves**

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

#### ***Insufficient Funding***

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.354(e)(1)]. However, Notice PIH 2012-42 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

#### OHCD Policy

OHCD will deny a family permission to move on grounds that OHCD does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or OHCD; (b) OHCD can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) OHCD can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If OHCD does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within OHCD jurisdiction. OHCD, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both movers, within OHCD jurisdiction and outside under portability, OHCD will not deny a move due to insufficient funding if OHCD previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in the current unit. OHCD will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

OHCD will create a list of families whose moves have been denied due to insufficient funding. OHCD will keep the family's request for portability open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. OHCD will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).



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OHCD will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied. Information will be included in the letter on steps the family can take to initiate a move when funding is available.

### ***Grounds for Denial or Termination of Assistance***

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.354(e)(2)].

#### OHCD Policy

If OHCD has grounds for denying or terminating a family's assistance, the OHCD will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move; however, it retains the discretion to do so under special circumstances. Refer to sections 3-III.G and 12-II.E for VAWA provisions.

### **Restrictions on Elective Moves [24 CFR 982.354(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-1.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2012-42].

#### OHCD Policy

OHCD will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within OHCD's jurisdiction or outside it under portability.

OHCD will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the OHCD's jurisdiction.

OHCD will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, OHCD will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).

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### 10-I.C. MOVING PROCESS

#### Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2), Notice PIH 2012-42]. The notices must be in writing [24 CFR 982.5].

#### Approval

##### OHCD Policy

Upon receipt of a family's notification that it wishes to move, OHCD will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A and 10-I.B. OHCD will notify the family of its determination within 10 business days following receipt of the family's notification.

A family's notification to move includes a written notice to vacate (minimum 30-day notice is required); and all documents requested from the participant and landlord by OHCD which are necessary to determine eligibility to move including a determination of good standing.

Not Good standing with OHCD is determined by OHCD reviewing the following:

- 1) The participant is not current on their payments toward any OHCD repayment agreements or accounts receivable debt;
- 2) Registered Criminal and Sex Offender; and
- 3) Verifies that the family is violating any family obligations under the voucher that may result in program termination.

Not Good standing with the landlord is determined by filed or awarded documents provided by the landlord and verifying the participant family:

- 1) Has violated the terms and conditions of the lease;
- 2) Is delinquent in rental payments to the landlord;
- 3) Is delinquent in utility bills which would become the responsibility of the landlord upon participant move-out; and
- 4) Has caused damage to the unit above normal wear and tear and beyond what the security deposit would pay.

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### Reexamination of Family Income and Composition

#### OHCD Policy

For families approved to move to a new unit within OHCD's jurisdiction, OHCD will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of OHCD's jurisdiction under portability, OHCD will follow the policies set forth in Part II of this chapter.

### Voucher Issuance and Briefing

#### OHCD Policy

For families approved to move to a new unit within OHCD's jurisdiction, OHCD will issue a new voucher within 10 business days of OHCD's written approval to move. No briefing is required for these families. OHCD will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and OHCD approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the OHCD's jurisdiction under portability, OHCD will follow the policies set forth in Part II of this chapter.

### Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

#### OHCD Policy

If a participating family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit will not begin until the following month. No overlap of housing assistance payments will be made without a waiver from OHCD Director to allow for the dual payment.

### Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it

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has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

### OHCD Policy

If a zero HAP family request to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family request to move, the PHA will not enter into a HAP contract on behalf of the family for the new unit.

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### PART II: PORTABILITY

#### 10-II.A. OVERVIEW

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The PHA that has jurisdiction in the area to which the family wants to move is called the **receiving PHA**.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2012-42].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

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### 10-II.B. INITIAL PHA ROLE

#### **Allowable Moves under Portability**

A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which **receiving** PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside OHCD's jurisdiction under portability. HUD regulations and PHA Policy determine whether a family qualifies.

#### ***Applicant Families***

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

#### OHCD Policy

In determining whether or not to deny an applicant family permission to move under portability because OHCD lacks sufficient funding or has grounds for denying assistance to the family, OHCD will follow the policies established in section 10-I.B of this chapter. If OHCD intends to deny a family permission to move under portability due to insufficient funding, OHCD must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

In addition, the **initial** PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

#### OHCD Policy

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in OHCD's jurisdiction at the time that the family's application for assistance was submitted, the family must lease a unit within OHCD's jurisdiction for at least 12 months before requesting portability.

OHCD will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

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### *Participant Families*

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed **they were** imminently threatened by harm from further violence if **they** remained in the unit [24 CFR 982.353(b)].

#### OHCD Policy

OHCD will determine whether a participant family may move out of OHCD's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. OHCD will notify the family of its determination in accordance with the approval policy set forth in section 10I.C of this chapter.

A HCV participant family qualifies to port to another PHA when OHCD verifies:

- 1) The participant family must be active on the HCV Program with OHCD for at least 12 months prior to exercising portability rights. If the outgoing portability participant has not been on the HCV program with OHCD for at least 12 months, the participant is ineligible to port.
- 2) The participant family has maintained good standing with OHCD.
- 3) The participant family is current on their payments toward any OHCD repayment agreement or that there is a \$0 balance for any accounts receivable debt. If the participant is not current on their repayment agreement or if they have an accounts receivable debt owed, the participant cannot relocate with continued OHCD assistance. Current on a repayment agreement is defined as having an executed repayment agreement and a minimum of four (4) consecutive months paid in full and on time.
- 4) If the participant is behind on a repayment agreement or they owe an accounts receivable debt, the balance owed must be paid in full and good standing for being current on payments must be met before the portability process can be initiated.
- 5) All adult members pass criminal/sex offender screening requirements (see Chapter 3).

If the above criteria are met, the participant may port outside OHCD's jurisdiction. If the above criteria are not met, the participant must stay in their current county until they meet the eligibility requirements; and/or be terminated from the program if the criminal screening revealed a crime for which a participant must be terminated.

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### **Determining Income Eligibility**

#### ***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.353(d)(1); 24 CFR 982.355(9)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2012-42].

#### ***Participant Families***

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

### **Reexamination of Family Income and Composition**

No new reexamination of family income and composition is required for a family.

#### OHCD Policy

For a participant family approved to move out of its jurisdiction under portability, OHCD generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

OHCD will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

### **Briefing**

The regulations and policies on briefings set forth in Chapter 5 of this plan require the PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

#### OHCD Policy

For families approved to move to a new unit within the OHCD jurisdiction, the OHCD will issue a new voucher within 10 business days of the OHCD's written approval to move. No briefing is required for these families. The OHCD will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If the family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees. Otherwise, the family will lose its assistance.



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For families moving into or families approved to move out of the OHCD's jurisdiction under portability, the OHCD will follow the policies set forth in Part II of this chapter. OHCD will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, OHCD will advise the family that the family must select the receiving PHA and notify OHCD of which receiving PHA was selected. OHCD will further inform the family this if the family prefers not to select the receiving PHA, OHCD will select the receiving PHA on behalf of the family.

OHCD will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, and voucher extension policies, and payment standards.

### **Voucher Issuance and Term**

A family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to families, the PHA will follow the regulations and procedures set forth in Chapter 5 and in section 10.I.C of this chapter.

#### OHCD Policy

Families will not be approved for portability if they are in violation of any lease terms.

For families approved to move under portability, OHCD will issue a new voucher within 10 business days of OHCD's written approval to move.

The initial term of the voucher will be 60 days.

### **Voucher Extensions and Expiration**

#### OHCD Policy

The initial agency will approve **no** extensions to a voucher issued to an applicant or participant family porting out of OHCD's jurisdiction except under the following circumstances:

- (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA,
- (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or
- (c) the family decides to search for a unit in a third PHA's jurisdiction.

In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

If the family wants to return to the OHCD jurisdiction or search for a unit in another PHA's jurisdiction, the family must be referred back to OHCD by the receiving PHA. In these cases, the family may have two vouchers in hand – the OHCD's voucher and the

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receiving PHA's voucher. The OHCD's voucher is considered the "voucher of record" and the OHCD's decision to extend the voucher only applies to the family's search for a unit in Prince William County or in another jurisdiction. The voucher issued to the family by the original receiving PHA will be considered invalid for the family's search for a unit in Prince William County.

To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within 60 days following the expiration date of the initial PHA's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)

### **Preapproval Contact with the Receiving PHA**

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2012-42].

#### OHCD Policy

OHCD will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

### **Initial Billing Deadline [Notice PIH 2016-09]**

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the **receiving** PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

#### OHCD Policy

**The initial PHA's (OHCD) decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If the PHA has not received an initial billing notice from the receiving PHA.**

Because the portability process is time sensitive, OHCD will notify the receiving PHA by phone, fax, or email to expect the family. OHCD will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with

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incoming portable families and procedures related to appointments for voucher issuance. OHCD will pass this information along to the family. OHCD will also ask for the name, address, telephone number, fax and email address of the person responsible for processing the billing information.

### **Sending Documentation to the Receiving PHA**

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2012-42]
- A copy of the family's voucher [Notice PIH 2012-42]
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(7), Notice PIH 2012-42]
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2012-42]

#### OHCD Policy

In addition to these documents, OHCD will provide the following information, if available, to the receiving PHA:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- Documentation of participation in the earned income disallowance (EID) benefit
- Documentation of participation in a family self-sufficiency (FSS) program

OHCD will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

### **Initial Billing Deadline [Notice PIH 2016-09, Letter to Executive Directors, 09/15/15]**

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where submission of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

Notice PIH 2016-09 places the burden of monitoring the initial billing deadline for a portability family on the initial PHA. It states that the initial PHA is generally not required to honor late billing. If the initial PHAS will accept a late billing submission, it is not required to take any action. However, if it does not intend to honor a late billing submission, it must inform the receiving PHA in writing. The notice does not specify a period for this contact.

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A receiving PHA who failed to send the initial billing by the deadline is generally required to absorb the family into its own program. However, HUD may require the initial PHA to accept the late billing in certain cases such as when the receiving PHA does not have funds to support the voucher and the family would be terminated from the program. In such cases, HUD may subsequently transfer units and funding to the initial PHA.

### OHCD Policy

If OHCD has not received an initial billing notice from the receiving PHA within the billing deadline, it will contact the receiving PHA to inform that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. OHCD will send the receiving PHA a written confirmation of its decision by mail.

OHCD will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

### **Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2012-42]**

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be **received** by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over-leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

### OHCD Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving

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PHA's voucher will expire 30 calendar days from the new expiration date of the initial voucher.

### **Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

### **Denial or Termination of Assistance [24 CFR 982.355(c)(17)]**

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553 (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

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### 10-II.C. RECEIVING PHA ROLE

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family [24 CFR 982.355(10)].

HUD may determine in certain instances that a PHA is not required to accept incoming portable families such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)].

The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

#### **Responding to Initial PHA's Request [24 CFR 982.355(c)]**

The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [(24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4)).

#### OHCD Policy

OHCD will use email, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

#### **Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2012-42]. (For more on this topic, see later under "Denial or Termination of Assistance.")

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### OHCD Policy

Within 10 business days after a portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

### **Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2012-42].

### OHCD Policy

OHCD will require the family to attend a briefing. OHCD will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about OHCD's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

### **Income Eligibility and Reexamination**

The receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new re-examination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

### OHCD Policy

For any family moving into its jurisdiction under portability, OHCD will conduct a new reexamination of family income and composition. However, OHCD will not delay issuing the family a voucher for this reason. Nor will OHCD delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the PHDA cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, OHCD will rely upon any verifications provided by the initial PHA to the extent that they are (a) accurately reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

### **Voucher Issuance**

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 CFR 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)].

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### ***Timing of Voucher Issuance***

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2012-42].

#### OHCD Policy

When a family ports into its jurisdiction, OHCD will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired, or the family does not comply with OHCD's procedures.

If the voucher is expired before the family arrives at OHCD, OHCD will contact the initial PHA to request an extension. If granted, OHCD will assist the family within the voucher timeframe. If the extension is denied, OHCD will return the family to the initial PHA. OHCD will update the family's information when verification has been completed.

### ***Voucher Term***

The term of the receiving PHA's voucher may not expire before 30 calendar days from the expiration of the initial PHA's voucher [[24 CFR 982.355\(c\)\(6\)](#)].

#### OHCD Policy

The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

### ***Voucher Extensions [24 CFR 982.355(c)(14), Notice 2012-42]***

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

#### OHCD Policy

OHCD generally will not extend the term of the voucher that it issues to an incoming portable family unless OHCD plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.



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OHCD will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

### ***Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]***

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).

### **Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2012-42]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2012-42].

### **Administering a Portable Family's Voucher**

#### ***Portability Billing [24 CFR 982.355(e)]***

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

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If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

### OHCD Policy

Unless OHCD negotiates a different amount of reimbursement with the initial PHA, OHCD will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

### ***Initial Billing Deadline***

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665)

- (a) no later than 10 business days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and**
- (b) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2012-42]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

### OHCD Policy

OHCD will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 10 business days following the date the HAP contract is executed, it is required to absorb the family into its own program unless

- (a) the initial PHA is willing to accept the late submission or
- (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2012-42].

### ***Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]***

**Annual Reexamination.** The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

### OHCD Policy

OHCD will send a copy of the updated HUD-50058 by regular mail, fax, or e-mail no later than 10 business days after the effective date of the reexamination.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

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- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.)
- An abatement or subsequent resumption of the HAP payments
- Termination of the HAP contract
- Payment of a damage/vacancy loss claim for the family
- Termination of the family from the program

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 10 days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

### ***Late Payments [Notice PIH 2012-42]***

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

### ***Overpayments [Notice PIH 2012-42]***

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.

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- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2012-42.

### ***Denial or Termination of Assistance***

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement [HUD-52665; Notice PIH 2012-42].

#### OHCD Policy

If OHCD elects to deny or terminate assistance for a portable family, OHCD will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. OHCD will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

### **Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that the PHA has funding available under its annual contributions contract (ACC [24 CFR 982.355(d)(1), Notice PIH 2012-42].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family [Notice PIH 2012-42].

#### OHCD Policy

If OHCD decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, OHCD will notify the initial PHA by the initial billing deadline

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specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If OHCD decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice but no later than 10 business days following the effective date of the termination of the billing arrangement.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355 (e)(4)].

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### REEXAMINATIONS

#### INTRODUCTION

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

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### PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

#### 11-I.A. OVERVIEW

The PHA must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.



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### **11-I.B. STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 982.516(b) **New HCV GB, Reexaminations**]**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or a rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of family's income that is received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income but is not required to verify non-fixed income amounts. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

#### OHCD Policy

The PHA chooses not to streamline the annual reexamination process for fixed-income sources. Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

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### 11-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

#### OHCD Policy

OHCD will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, OHCD will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the OHCD will perform a new annual re-examination.

OHCD also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### Notification of and Participation in the Annual Reexamination Process

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

#### OHCD Policy

Notification of annual reexamination process will be sent by first-class mail or email and will explain the reexamination process. In addition, it will inform the family of the information and documentation that must be provided.

Once all verifications are returned, if there are questions the family will be scheduled a virtual meeting. If the family is unable to attend the scheduled interview, the family should contact the OHCD in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the OHCD will send a second notification with a new interview appointment date and time.

If the family fails to attend two scheduled interviews, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternative address provided in the family's file.

An adult advocate, interpreter, or other assistant may assist the family complete documents for the recertification process. The family must execute a certification attesting to the role and the assistance provided by any such third party.

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OHCD has adopted an on-line recertification process for all regular and interim recertifications. Policies have been updated to reflect this change.

### **Mail-In Recertification**

The PHA may consider adopting mail-in recertifications for all assisted households.

#### OHCD Policy

As an alternative recertification process OHCD has adopted a mail-in recertification process for all tenant-based and project-based vouchers. With this process OHCD sends a mail-in reexamination packet to the household by US mail. The household completes the forms in the packet and returns the required documents back to OHCD in the self-address prepaid envelope provided by OHCD. OHCD processes the reexamination and provides a Rent Change Notice to the tenant and owner to advise them of their new rent and effective date.

If the recertification package is returned to OHCD as undeliverable, OHCD will mail the household and owner a Termination Letter and follow applicable termination policies.

### **Virtual Conference Call or Phone Call**

In the event that information is left blank on required documents or the Housing Program Analyst has questions they should schedule a virtual conference through WebEx or a phone call to go over the necessary paperwork that was left blank or to determine if any additional information is needed. For those parts of the reexamination form left blank the Housing Program Analyst can make the corrections but would need to add their initials and date plus indicate that the corrections were completed over the phone with the participant.

### **Documents not Returned Timely – Mail-In Recertification**

After 10 business days, if recertification documents have not been returned to OHCD a reminder notice will be sent. If the household fails to return the packet after an additional 10 business days, OHCD will send the tenant and owner a Termination Letter.

### **Missing Information – Mail-In Recertification**

If the household does not or is unable to provide all required information/documents needed to complete the mail-in recertification, OHCD will send a request for additional information. This information must be provided by the household within 10 business days from the date of the request; however, the household may request an extension. If the household does not provide the required documents or information within the

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required time frame (plus any extensions), the tenant and owner will be sent a Termination Letter.

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### 11-I.D. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, most families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

#### OHCD Policy

Families will be asked to provide all required information (as described in the reexamination notice). The required information will include a:

- PHA-designated reexamination form
- Authorization for the Release of Information/Privacy Act Notice
- Supporting documents or forms related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable or fails to provide at the time of the interview must be provided within 10 business days. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

At the annual reexamination, OHCD will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. OHCD will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or OHCD has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

## CHAPTER 11

The family must request written OHCD approval prior to adding any family member (see Chapter 11-11. B.) If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

## CHAPTER 11

### 11-I.E. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

Section 327 of Public Law 109-115 established new restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance. If, however, a student in these circumstances is determined independent from **their** parents in accordance with PHA policy, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### OHCD Policy

During the annual reexamination process, OHCD will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from **their** parents or is considered a vulnerable youth based on the policies in Sections 3-II. E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on **their** own income or the income of **their** parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on **their** own income and the income of **their** parents (if applicable), OHCD will process a reexamination in accordance with the policies in this chapter.

## CHAPTER 11

### 11-I.F. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

#### OHCD Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance, plus 3 business days for mailing.

If less than 30 days plus 3 business days for mailing, remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice plus 3 business days for mailing is required.

If OHCD chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by OHCD, but will always allow for the 30-day notice period plus 3 business days for mailing.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by OHCD by the date specified, and this delay prevents OHCD from completing the reexamination as scheduled.



## CHAPTER 11

### PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

#### 11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted [HCV GB, p. 12-10].

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family-initiated interim reexaminations.

## CHAPTER 11

### 11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income and household composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

#### OHCD Policy

Any change in household composition and/or household income must be reported to OHCD within 10 business days. OHCD will conduct interim reexaminations to account for the following that occur between annual re-examinations:

- Any decreases in income, or
- Any increases in income \$200 or more per month; and
- All changes in household composition

#### **New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

#### OHCD Policy

The family must inform OHCD of the birth, adoption, or court-awarded custody of a child within 10 business days of the event.

#### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or another household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

**Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.**

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

## CHAPTER 11

### OHCD Policy

Families must request OHCD approval to add a new family member which includes any person not on the lease who is expected to stay in the unit for more than 30 days within a 12-month period and therefore no longer qualifies as a “guest”. Request must be in writing and approved by OHCD prior to the individual moving into the unit.

OHCD will only approve new household members who are live-in aides, foster children, foster adults, minor children and spouse by marriage. OHCD will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If OHCD determines an individual meets OHCD’s eligibility criteria and documentation requirements, OHCD will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If OHCD determines that an individual does not meet OHCD’s eligibility criteria or documentation requirements, OHCD will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

OHCD will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

### OHCD Policy

If a household member ceases to reside in the unit, the family must inform OHCD within 10 business days. This requirement also applies at the point that the family concludes a family member who has been considered temporarily absent is now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform OHCD within 10 business days.

## CHAPTER 11

### 11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

#### **PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

##### OHCD Policy

OHCD will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), OHCD will conduct an interim reexamination at the start and conclusion of the 24-month eligibility period.
- If the family has reported zero income, OHCD will obtain a new EIV report the first month of each quarter and conduct an interim re-exam if EIV reports that the zero-income family is receiving income.
- If at the time of the annual reexamination it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income), OHCD will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, OHCD will conduct an interim reexamination.
- OHCD may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

#### **Family-Initiated Interim Reexaminations**

The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)].

#### ***Required Reporting***

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

##### OHCD Policy

Families are required to report all increases in income, including new employment, SS, SSI, TANF, etc., within 10 business days of the date the change takes effect.

## CHAPTER 11

OHCD will only conduct interim reexaminations in the following situations:

1. The family request and interim re-examination.
2. The family's household composition has changed.
3. The family reports a change that will result in a reduced family income.
4. The family reports a change that will result in an increased family income in any of the following situations, excluding households enrolled in the Family Self-Sufficiency program and families under the Earned Income Disregard:
  - a. A household member's income changes from zero income to income.
  - b. A household member's income changes from unearned income to income.
  - c. A member is added to the household and adds household income.
  - d. A household member's employment changes from part-time to full-time employment.
  - e. A household reaches zero HAP subsidy.

### ***Optional Reporting***

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

### **OHCD Policy**

Any change in household composition and/or household income must be reported to OHCD within 10 business days. If a family reports a change that would result in a decrease in the family share of rent, OHCD will conduct an interim reexamination. See Section 11-II.D. for effective dates.

Families may report changes in income or expenses that would result in a decrease in the family share of the rent at any time.

## CHAPTER 11

### 11-II.D. PROCESSING THE INTERIM REEXAMINATION

#### Method of Reporting

##### OHCD Policy

The family may notify OHCD of changes in writing. If the family provides oral notice, OHCD will also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if OHCD determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, OHCD will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days from the date of a request from OHCD. This time frame may be extended for good cause with OHCD approval. OHCD will accept required documentation by mail, fax, email or in person.

#### Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 CFR 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

##### OHCD Policy

If the family share of the rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family share of the rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively. **If the Participant fails to provide verification within 30 days of initial from the month the change was reported, the decrease in income will be effective following the month verification(s) were provided. No retroactive payment will be considered.**

## CHAPTER 11

### PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

#### 11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV GB, pgs12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

## CHAPTER 11

### 11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:
  - If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
  - If the payment standard amount has *decreased*, the decreased payment standard will be applied at the *second annual* reexamination following the effective date of the decrease in the payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

#### **Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.



## CHAPTER 11

### **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5].

Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

#### OHCD Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

## CHAPTER 11

### 11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment
- The amount and effective date of the new family share of the rent
- The amount and effective date of the new rent to owner

The family must be given an opportunity for an informal review regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

#### OHCD Policy

If OHCD determines that a Voucher family is under-housed due to a change in family size, subject to the Occupancy Standards, the family, with the assistance of the HCV staff, shall try to find an acceptable unit as soon as possible but no later than the recertification date. If an acceptable unit is found by the family which is available for occupancy and/or lease with the current owner can be terminated in accordance with its term, the HAP contract with the current owner shall be terminated and Housing Assistance Payments shall be made available to the family for occupancy in another acceptable unit. If the family does not cooperate to find an acceptable unit, the family will be found ineligible for future assistance. The most appropriate occasion for such a transfer occurs at re-examination. Housing Assistance Payments will not be terminated unless the family rejects, without good reason, the offer of a unit, which the OHCD judges to be acceptable.

If the OHCD determines that a Voucher family is over-housed due to a change in family size, the OHCD will advise the family to move to an appropriately sized unit at the recertification effective date; if the family does not wish to move, the TTP calculation at the next recertification will be based on the lesser payment standard which corresponds to the new family size.

## CHAPTER 11

### 11-III.D. DISCREPANCIES

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

## CHAPTER 11

## CHAPTER 12

### TERMINATION OF ASSISTANCE AND TENANCY

#### INTRODUCTION

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take, and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

## CHAPTER 12

### PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

#### 12-I.A. OVERVIEW

HUD requires the PHA to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the PHA to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the PHA.

## CHAPTER 12

### **12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]**

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero, the family's assistance automatically terminates 180 days after the last Housing Assistance Payment (HAP).

#### OHCD Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in the HAP payment to rise above zero, the family must notify OHCD of the changed circumstances and request an interim reexamination before the expiration of the 180-day period (6 months).

## CHAPTER 12

### 12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

#### OHCD Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or co-head if applicable. Before terminating the family's assistance, OHCD will follow the notice requirements in Section 12-II.F

When the participant voluntarily terminates from the program, the termination effective date is earliest of:

1. The last date of the month in which the family is vacating the unit, or
2. The last day of the "self-termination" month stated in the participant provided written notification to OHCD of the voluntary termination. The family notice of "self-termination" needs to include the effective date of their self-termination. This circumstance may result in a 30-day notice not being provided to the landlord.

When a program participant self-terminates, OHCD's policies for appeals and hearings are not applicable. Participants are only eligible to request a hearing to dispute an action taken by OHCD. The rules for hearings do not apply to a participant-initiated self-termination, because OHCD did not take action to terminate participation on the program when the participant self-terminates.

There are exceptions for Non-Elderly Disabled (NED) voucher participants with Developmental Disabilities. When a participant with a developmental disability request termination of assistance their advocate Director or family member(s) must also agree to the termination. The reason for this exception is to provide a reasonable accommodation to those participants with developmental disabilities who cannot make this type of decision on their own.

If a participant was closed at any time before this policy became effective, OHCD can reinstate that participant after a re-examination of the participants eligibility and inspection of the property. The effect date of assistance will be based upon both the passed inspection date and when the owner wants to begin assistance.



## CHAPTER 12

### 12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances.

#### **Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

#### OHCD Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. In such cases OHCD will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision, OHCD will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, OHCD may, on a case-by-case basis, choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

It is a family obligation to provide to OHCD copies of all notices issued to them by the landlord within 10 business days following receipt of any notice. Failure to do so is grounds for termination of assistance.

If the notice of termination issued by the landlord is for cause, the OHCD shall review the basis for the termination to determine if the violation of the lease is also a violation of the family's obligations under the voucher, and if OHCD should begin an investigation that could lead to the termination of the family from the HCV program.

## CHAPTER 12

### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form, they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

### **Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]**

The PHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

### **Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the PHA determined the family to be noncompliant.

#### OHCD Policy

OHCD will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

## CHAPTER 12

### **Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]**

The PHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

### **Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

### **Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with **their** parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

### **Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

The PHA must immediately terminate program assistance for deceased single member households.

#### OHCD Policy

Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive.

## CHAPTER 12

### 12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

#### **Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

#### ***Use of Illegal Drugs and Alcohol Abuse***

##### OHCD Policy

OHCD will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents. OHCD will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous twelve months.

OHCD will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, OHCD will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OHCD may, on a case-by-case basis, choose not to terminate assistance.

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### ***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Drug-related criminal activity* is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

#### OHCD Policy

OHCD will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

OHCD will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

OHCD further defines examples of violent criminal activity to include but not be limited to rape, murder, robbery, arson, assault, and home invasion.

In making its decision to terminate assistance, OHCD will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OHCD may, on a case-by-case basis, choose not to terminate assistance.

### **Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 (VAWA) explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

## CHAPTER 12

Additionally, PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation].

### OHCD Policy

OHCD may deny the family's request to re-enter the FSS program based on their failure to comply, without good cause, with their FSS contract of participation.

OHCD **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related PHA policies.

Any family member has been evicted from federally assisted housing in the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any PHA in connection with the Section 8 or public housing assistance under the 1937 act.

The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with OHCD.

A family member has engaged in or threatened violent or abusive behavior toward OHCD personnel.

*Abusive or violent behavior towards OHCD personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

## CHAPTER 12

In making its decision to terminate assistance, OHCD will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, OHCD may, on a case-by-case basis, choose not to terminate assistance.

### ***Family Absence from the Unit [24 CFR 982.312]***

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

#### OHCD Policy

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F. For additional guidance on absences from the unit, please refer to Chapter 3, Part I.

### ***Insufficient Funding [24 CFR 982.454]***

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

#### OHCD Policy

OHCD will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If OHCD determines there is a shortage of funding, prior to terminating any HAP contracts, OHCD will determine if any other actions can be taken to reduce program costs.

In the event that the PHA decides to stop issuing vouchers as a result of a funding shortfall, and the PHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the PHA resumes issuing vouchers, the PHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, OHCD will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, OHCD will inform the local HUD field office. OHCD will terminate the minimum number needed in order to reduce HAP costs to a level within OHCD's annual budget authority.

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If OHCD must terminate HAP contracts due to insufficient funding, OHCD will do so in accordance with the following criteria and instructions:

Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members.

Families comprising the required number of special purpose vouchers, including non-elderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUDVASH), and family unification program (FUP) will be the last to be terminated.

Most recent admissions excepting elderly, disabled, will be terminated first, until OHCD's HAP savings are sufficient to ensure that OHCD does not exceed its budget authority.



## **CHAPTER 12**

### **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

#### **12-II.A. OVERVIEW**

The PHA is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate.

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### **12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

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### 12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

#### **Change in Household Composition**

As a condition of continued assistance, the PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

##### OHCD Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon OHCD request.

#### **Repayment of Family Debts**

##### OHCD Policy

If a family owes amounts to OHCD, as a condition of continued assistance, OHCD will require the family to repay the full amount within 60 days or to enter into a repayment agreement, within 30 days of receiving notice from OHCD of the amount owed. See Chapter 16 for policies on repayment agreements.

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### 12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

#### Evidence

For criminal activity, HUD permits the PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

#### OHCD Policy

OHCD will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

*Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not.

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

#### Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

#### **Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]**

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

#### OHCD Policy

OHCD will consider the following facts and circumstances when making its decision to terminate assistance:

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The seriousness of the case, especially with respect to how it would affect other residents' safety or property.

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault or stalking

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as, the family's recent history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

- Any statements made by witnesses, or the participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

OHCD will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

Before terminating assistance, OHCD will also consider the mitigating circumstances related to a disability.

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For criminal and/or drug related crimes and behaviors, credible evidence or records are necessary to justify decisions. Such evidence might include drugs found in the most recently rented unit. Appropriate documentation includes, but is not limited to, judgments, police reports, complaints, letters from neighbors or management officers (or family members supported by documentation), restraining orders, evidence provided by police and the court system (such as raids), an arrest warrant issued, or any other written documents confirming or explaining the situation.

When a landlord, probation officer, neighbor, or social service agency worker provides information about alcohol abuse, drug use, or criminal activities or behaviors, a written complaint or documentation must be provided. When the information is provided by someone that cannot provide proof of the criminal act, OHCD must obtain verification of such information from a reliable source, in writing, such as verified criminal records or a criminal history report.

Evidence of a household member's successful completion of a supervised drug or alcohol rehabilitation program may be verified in the form of a certification from the agency administering the rehabilitation program which includes a statement that the individual was compliant with all the rehabilitation program rules and successfully completed said program. A supervised drug rehabilitation program does not include self-help treatment programs, e.g. Alcoholics Anonymous.

If the household member has not yet completed the supervised drug or alcohol rehabilitation program, verification is required to show that the individual is demonstrating progress. The verification may be in the form of a certification from the agency administering the rehabilitation program, which includes a statement that the individual is currently enrolled in the program, compliant with all the rehabilitation program rules and is demonstrating progress in the program.

OHCD may perform a pre-termination conference with the participant, but it is not required

### **Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]**

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### OHCD Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, OHCD will determine whether the behavior is related to the disability. If so, upon the family's request, OHCD will determine whether alternative measures are appropriate as a reasonable accommodation. OHCD will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

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### 12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

#### VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed **they were** imminently threatened by harm from further violence if **they** remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

#### Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

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Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance. [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

### OHCD Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, OHCD will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking.
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an immediate time frame
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest OHCD's determination that **they are** an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.



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If the participant who threatens to commit or commits a violent act against another asserts that the threat or act is due to a mental disability and requests a reasonable accommodation in lieu of termination, if OHCD will determine whether the behavior is related to the disability. If so, upon the family's request, the OHCD will determine whether alternative measures are appropriate as a reasonable accommodation. The OHCD will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodations.

### **Documentation of Abuse [24 CFR 5.2007]**

#### OHCD Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, OHCD will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The OHCD reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases OHCD will document the waiver in the individual's file.

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to, "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

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If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

### OHCD Policy

OHCD will terminate assistance to a family member if OHCD determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, OHCD will consider all credible evidence, including, but not limited to, a signed certification (form HUD 5382) or other documentation of abuse submitted to OHCD by the victim in accordance with this section and section 16-IX.D.

OHCD will also consider the factors in section 12-II.D. Upon such consideration, OHCD may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member. If OHCD does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

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### 12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD 52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

#### OHCD Policy

Whenever a family's assistance will be terminated, OHCD will send a written notice of termination to the family and to the owner. OHCD will also send a form HUD 5382 and form HUD 5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When OHCD notifies an owner that a family's assistance will be terminated, the OHCD will, if appropriate, advise the owner of **their** right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when PHA terminates a household's housing benefits.

#### OHCD Policy

Whenever OHCD decides to terminate a family's assistance because of the family's action or failure to act, OHCD will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD 5382 and form HUD 5380. OHCD will request in writing that a family member wishing to claim protection under VAWA notify OHCD within 14 business days.

Additional notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

#### OHCD Policy

If, based on a criminal record or sex offender registration information, a participant family appears to be subject to termination, OHCD will notify the family in writing of the

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proposed termination and provide a copy of the record to the participant and to the subject of the record. The family will be given 10-business days to dispute the accuracy and relevance of the information. If the family does not contact OHCD to dispute the information within that 10-day period, OHCD will proceed with issuing the notice of termination. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official termination letter will still be given the opportunity to do so as part of the informal hearing process.

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### **12-II.G. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE**

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

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### **PART III: TERMINATION OF TENANCY BY THE OWNER**

#### **12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

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### **12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 , 24 CFR 5.2005(c) and Form HUD-52641-A, Tenancy Addendum**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

#### **Serious or Repeated Lease Violations**

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E.). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

#### **Violation of Federal, State, or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

#### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person* -- meaning any member of the household, a guest, or another person under the tenant's control -- commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises.

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E). The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees; or
- Violating a condition of probation or parole imposed under federal or state law.

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The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

### ***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

### **Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do.

During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, “other good cause” for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.



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### **12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]**

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notices to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notices at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

#### OHCD Policy

If the eviction action is finalized in court, the owner must provide OHCD with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

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### **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

An owner who has grounds to terminate a tenancy is not required to do so and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12-II.E.)

## CHAPTER 12

### **12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

#### OHCD Policy

Serious and repeated lease violations will include, but not limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guest.

The OHCD will determine if a family has committed serious or repeated violations of the lease based on the preponderance of available evidence, including but not limited to, a court-ordered eviction, and owner's notice of eviction, or other substantiated evidence.

## CHAPTER 12

### EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the PHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

#### OHCD Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

#### OHCD Policy

OHCD will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict, police reports and affidavits from the owner, neighbors or other credible parties with direct knowledge.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the PHA and the owner before moving out of the unit or terminating the lease.

#### OHCD Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to OHCD at the same time the owner is notified.

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- The family must promptly give the PHA a copy of any owner eviction notice.
- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

The composition of the assisted family residing in the unit must be approved by the PHA. The family must promptly notify the PHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request PHA and owner approval to add any other family member as an occupant of the unit.

### OHCD Policy

The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. OHCD will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

### OHCD Policy

Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the PHA when the family is absent from the unit.

### OHCD Policy

Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to OHCD at the start of the extended absence.

- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).

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- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.

### OHCD Policy

OHCD will use HUD's Enterprise Income Verification (EIV) system to verify whether the family is receiving any additional housing subsidy.

- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

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## CHAPTER 13

### OWNERS

#### INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.



## CHAPTER 13

### PART I. OWNERS IN THE HCV PROGRAM

#### 13-I.A. OWNER RECRUITMENT AND RETENTION

##### [HCV Landlord Strategy Guidebook for PHAs]

#### Recruitment

PHA's are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

If the PHA will be conducting outreach events, the PHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. PHAs must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

#### OHCD Policy

OHCD will conduct owner outreach to ensure that owners are familiar with the program and its advantages. OHCD will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person
- Holding owner recruitment/information meetings
- Participating in community-based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

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### Retention

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

#### OHCD Policy

All OHCD activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

OHCD will provide owners written information that explains the program, including HUD and OHCD policies and procedures, in easy-to-understand language.

OHCD will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated OHCD contact person.
- Coordinating inspection and leasing activities between OHCD, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD Housing Quality Standards (HQS).
- Providing other written information about how the program operates through a landlord handbook, including answers to frequently asked questions.
- Rendering full and efficient service and providing the highest level of customer service possible.
- Contacting owners via emails or texts to disseminate information.

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### 13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

#### OHCD Policy

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit can notify OHCD. OHCD will direct owners to list their current rental properties with Virginia Housing Search at <http://www.virginiahousingsearch.com/>. Owners can list their properties and tenants can find listings on-line or over the phone by calling toll free at 1-877-428-8844. This assistance is offered in both English and Spanish. This information is provided to families as part of the informational briefing packet.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on participant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

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The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies, for HQS inspections at initial lease up and throughout the family's tenancy.

### OHCD Policy

Prior to scheduling an inspection or preparing contracts, the owner's name must be checked against the records of Prince William County Department of Tax Administration in order to verify the owner's status. The owner's name must be on the lease, and HAP contract. If another person is managing the unit, he or she may sign the contracts as the owner's designee and the owner must provide OHCD a copy of the Management Agreement.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the PHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract

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### 13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Complying with all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA information required under the HAP contract
- Collecting the security deposit, the tenant's rent, and any charges for unit damage by the family.
- Enforcing participant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease.
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L: 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1)).

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### 13-I.D. OWNER QUALIFICATIONS

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

#### **Owners Barred from Participation [24 CFR 982.306(a) and (b)]**

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct the PHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending. The PHA will inform the owner of any results as well as any HUD directives not to approve a tenancy.

#### **Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]**

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

#### **Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19; Form JID-52641, Section 13]**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant board members)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

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Immediate family member means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of **their** duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict-of-interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.

### OHCD Policy

In considering whether to request a conflict of interest waiver from HUD, OHCD will consider certain factors such as consistency of the waiver with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

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### **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

#### OHCD Policy

OHCD will refuse to approve a request for tenancy if OHCD becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with the HQS for units leased under the participant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of participants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the participant, any member of the household, a guest or another person under the control of any member of the household that: (i) Threatens the right to peaceful enjoyment of the premises by other residents; (ii) Threatens the health or safety of other residents, of employees of OHCD, or of owner employees or other persons engaged in management of the housing; (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or (iv) Is drug-related criminal activity or violent criminal activity;
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.
- HUD informs OHCD that the owner has been disbarred, suspended or subject to a limited denial of participation under 24 CFR Part 24.
- HUD informs OHCD that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.



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- HUD informs OHCD that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.
- Unless their lease was effective prior to June 17, 1998 (and the family has not moved), the owner cannot be a parent, child, grandparent, grandchild, sister, or brother of any family member. OHCD may waive this restriction as a reasonable accommodation for a family member who has a disability.
- The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD loans or loans made by HUD.

In considering whether to disapprove owners for any of the discretionary reasons listed above, OHCD will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, OHCD may, on a case-by-case basis, choose to approve an owner.

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, OHCD may restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. OHCD may also terminate some or all of the contracts with the owner. Before imposing any penalty against an owner, OHCD will review all relevant factors pertaining to the case, and consider such factors as the owner's record of compliance, the number of violations, and the age of such violations.

OHCD will only enter into a contractual relationship with an owner who provides proof that local real estate taxes, fines, and assessments have been paid.

### **Legal Ownership of Unit**

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

#### OHCD Policy

OHCD will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g. County Real Estate Assessments, deed of trust, and proof of taxes for most recent year).

The owner will be considered in breach of the HAP Contract if his/her mortgage is insured by HUD or his/her loan was made by HUD, and the owner has failed to comply with the regulations for applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement (Form HUD-52641).

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### **13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with any actions or responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## CHAPTER 13

### PART II. HAP CONTRACTS

#### 13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA, and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV **tenant-based** program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and the owner must execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

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### 13-II.B. HAP CONTRACT CONTENTS

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic **contract information**: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted participants. PHA policy on the amount of security deposit an owner may collect is found in chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by OHCD or actual receipt by the owner).

#### OHCD Policy

OHCD has not adopted a policy that defines when the housing assistance payment by OHCD is deemed received by the owner; therefore, no modifications to the HAP contract will be necessary.

Part B is the body of the HAP contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract

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- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the HAP contract includes the Tenancy Addendum (Form HUD-52641-A). The Tenancy Addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

## CHAPTER 13

### 13-II.C. HAP CONTRACT PAYMENTS

#### General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent specified in the lease.

The family is not responsible for payment of the HAP payment, and OHCD is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

#### Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By **accepting** the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and

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premises in accordance with HQS; that the contract unit is leased to the participant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

### **Late HAP Payments [24 CFR 982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by participants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

#### OHCD Policy

If the payment is late to the owner caused by OHCD the maximum late payment is \$25.

### **Termination of HAP Payments [24 CFR 982.311(b)]**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the participant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the participant.

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### OHCD Policy

The owner must inform OHCD when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform OHCD when the owner has obtained a court judgment or other process allowing the owner to evict the participant and provide OHCD with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the participant, OHCD will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform OHCD of the date when the family actually moves from the unit, or the family is physically evicted from the unit.



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### **13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan
- If the owner has engaged in drug-related criminal activity
- If the owner has committed any violent criminal activity

If the PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

#### OHCD Policy

Before OHCD invokes a remedy against an owner, OHCD will evaluate all information and documents available to determine if the contract has been breached.

If relevant, OHCD will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, OHCD will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

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### 13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month that the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP contract.

#### OHCD Policy

OHCD may elect to terminate the HAP contract in each of the following situations:

- 1) Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- 2) The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8;
- 3) The unit does not meet HQS [24 CFR 982.404] – see chapter 8;
- 4) The family breaks up [HUD Form 52641] – see chapter 3;
- 5) The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

#### OHCD Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which OHCD gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to OHCD any housing assistance payment received after this period.

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If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit will begin the month following in which the family moves out of its old unit. [HCV GB, p. 8-22].

### OHCD Policy

OHCD will only make one payment per month for assisted families.

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### **13-II.F. CHANGE IN OWNERSHIP/ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

#### OHCD Policy

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

OHCD must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

The new owner must provide a written certification to OHCD that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification
- Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- Certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, OHCD will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, OHCD will process the leasing in accordance with the policies in chapter 9.

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### 13-II.G. FORECLOSURE [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

#### PHA Policy

If a property is in foreclosure, the PHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The PHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

The PHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the PHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, the PHA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The PHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

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### PROGRAM INTEGRITY

#### INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to OHCD are spent in accordance with HUD requirements.

This chapter covers HUD and the PHA policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

Part I: Preventing, Detecting, and Investigating Errors and Program Abuse. This part presents OHCD policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures OHCD must and may take when errors or program abuses are found.



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### PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

#### 14-I.A. PREVENTING ERRORS AND PROGRAM ABUSE

HUD created the Enterprise Income Verification (EIV) system to provide the PHA with a powerful tool for preventing errors and detecting program abuse. The PHA is required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. The PHA is further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

#### OHCD Policy

OHCD anticipates that the vast majority of families, owners, and OHCD employees intend to and will comply with program requirements for retention in family file.

To ensure that OHCD’s HCV program is administered according to the highest ethical and legal standards, OHCD will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- OHCD will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.
- OHCD will provide each applicant and participant with a copy of “*Is Fraud Worth It?*” (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.
- OHCD will provide each applicant and participant with a copy of “*What You Should Know about EIV,*” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12. In addition, OHCD will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- OHCD will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key OHCD forms and form letters that request information from a family or owner.
- OHCD staff will be required to review and explain the contents of all HUD- and OHCD-required forms prior to requesting family member signatures.
- OHCD may require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- OHCD will provide each OHCD employee with the necessary training on program rules and the organization’s standards of conduct and ethics.

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For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

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### 14-I.B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, OHCD will use a variety of activities to detect errors and program abuse.

#### Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires OHCD to review a random sample of participant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

##### OHCD Policy

In addition to the SEMAP quality control requirements, OHCD will employ a variety of methods to detect errors and program abuse.

- OHCD routinely will use HUD and other Non-HUD sources of up-front income verification
- At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
- OHCD will compare family-reported income and expenditures to detect possible unreported income.
- 10% of re-examination files will have quality control performed by supervisor.

#### Independent Audits and HUD Monitoring

OMB requires all PHAs that expend \$500,000 or more in federal awards annually to have an independent audit. In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

##### OHCD Policy

OHCD will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of OHCD's error detection and abuse prevention efforts.

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### **Individual Reporting of Possible Errors and Program Abuse**

#### OHCD Policy

OHCD will encourage staff, program participants, and the public to report possible program abuse.

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### 14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

#### When the PHA Will Investigate

##### OHCD Policy

OHCD will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for OHCD to investigate, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

OHCD will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

#### Consent to Release of Information [24 CFR 982.516]

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

#### Analysis and Findings

##### OHCD Policy

OHCD will base its evaluation on a preponderance of the evidence collected during its investigation.

- *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence
- For each investigation OHCD will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to OHCD, and (3) what corrective measures or penalties will be assessed.

#### Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

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### OHCD Policy

In the case of family-caused errors or program abuse, OHCD will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, OHCD will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

### **Notice and Appeals**

#### OHCD Policy

OHCD will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which OHCD determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

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### PART II: CORRECTIVE MEASURES AND PENALTIES

#### 14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

##### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, OHCD must promptly correct the HAP, family share, and any utility reimbursement prospectively.

##### OHCD Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice. Any decreases in family share will become effective the first of the month following the discovery of the error.

##### **Reimbursement**

Whether the family or owner is required to reimburse OHCD or OHCD is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

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### 14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows OHCD to use incorrect information provided by a third party.

#### Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]

##### OHCD Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. OHCD may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, OHCD will terminate the family's assistance in accordance with the policies in Chapter 12.

#### PHA Reimbursement to Family [HCV GB p. 22-12]

##### OHCD Policy

OHCD will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

#### Prohibited Actions

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to OHCD [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

##### OHCD Policy

Any of the following will be considered evidence of family program abuse:

- ✓ Payment to the owner in excess of amounts authorized by OHCD for rent, security deposit, and additional services
- ✓ Offering bribes or illegal gratuities to the OHCD Board, employees, contractors, or other OHCD representatives
- ✓ Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to OHCD on the family's behalf



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- ✓ Use of a false name or the use of falsified, forged, or altered documents
- ✓ Intentional misreporting of family information or circumstances (e.g. income, family composition)
- ✓ Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- ✓ Admission of program abuse by an adult family member

OHCD may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- Require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- Require as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

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### 14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

#### Owner Reimbursement to PHA

In all cases of overpayment of subsidy caused by the owner, the owner must repay the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

##### OHCD Policy

In cases where the owner has received excess subsidy, OHCD will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

#### Prohibited Owner Actions

An owner participating in the HCV program must not:

- Make any false statement to OHCD [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

##### OHCD Policy

Any of the following will be considered evidence of owner program abuse:

- ✓ Charging the family rent above or below the amount specified by OHCD
- ✓ Charging a security deposit other than that specified in the family's lease
- ✓ Charging the family for services that are provided to unassisted participants at no extra charge
- ✓ Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit
- ✓ Knowingly accepting incorrect or excess housing assistance payments
- ✓ Offering bribes or illegal gratuities to the OHCD Board, employees, contractors, or other OHCD representatives

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- ✓ Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to OHCD
- ✓ Residing in the unit with an assisted family
- ✓ Any violation of the HAP Contract

### **Remedies and Penalties**

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

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### 14-II.D. OHCD-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of the PHA staff (including PHA contractors) with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

#### Repayment to PHA

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].

#### PHA Reimbursement to Family or Owner

The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from PHA's administrative fee reserves [HCV GB p. 22-12].

#### Prohibited Activities

##### OHCD Policy

Any of the following will be considered evidence of program abuse by OHCD staff including contracted agents.

- Failing to comply with any HCV program requirements for personal gain
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to OHCD
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of OHCD activities, policies, or practices
- Misappropriating or misusing HCV funds
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program
- Committing any other corrupt or criminal act in connection with any federal housing program

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### 14-II.E. CRIMINAL PROSECUTION

#### OHCD Policy

When OHCD determines that program abuse by an owner, or family member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, OHCD will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

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### 14-II.F . FRAUD AND PROGRAM ABUSE RECOVERIES

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from participants that are due as a result of fraud and abuse. 24 CFR 792.202 permits OHCD to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that OHCD incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555

If HUD incurs costs on behalf of OHCD related to the collection, these costs must be deducted from the amount retained by OHCD.

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# Chapter 15

## SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M; New HCV GB, *Special Housing Types*]

### INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that PHAs must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

#### OHCD Policy

Families will not be permitted to use any special housing types unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601]. A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types*, p. 3].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy – N/A

Part II: Congregate Housing – N/A

Part III: Group Homes

Part IV: Shared Housing – N/A

Part V: Cooperative Housing – N/A

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership



# Chapter 15

## PART I: SINGLE ROOM OCCUPANCY

[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 4]

### 15-I. A. OVERVIEW

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing.”

### 15-B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

### 15-I. C. HOUSING QUALITY STANDARDS (HQS)

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- *Access*: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety*: All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply [24 CFR 982.605].

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- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.
- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

### OHCD Policy

OHCD does not operate Single Room Occupancy Special Housing

# Chapter 15

## PART II: CONGREGATE HOUSING

[24 CFR 982.606 through 982.609; Form HUD-52641; New HCV GB,  
*Special Housing Types*]

### 15-II. A. OVERVIEW

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing.”

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## 15-II. B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

## 15-11. C. HOUSING QUALITY STANDARDS

HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

### OHCD Policy

OHCD does not operate Congregate Housing as a Special Housing type.

# Chapter 15

## PART III: GROUP HOME

[24 CFR 982.610 through 982.614; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 8]

### 15-III. A. OVERVIEW

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home.”

### 15-III. B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero- or one-bedroom. If there is a live-in aide, the aide must be counted in determining the household’s unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorated share of the payment standard for the group home size. The prorated share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the prorated share of the family unit size to the utility allowance for the group home.

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The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorated portion of the reasonable rent for the group home. In determining reasonable rent, the PHA **must** consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

## 15-III. C. HOUSING QUALITY STANDARDS

**The entire unit must comply with** HQS requirements described in Chapter 8, except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.
- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

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- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from **disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject** to serious adverse conditions, such as:
  - Dangerous walks or steps
  - Instability
  - Flooding, poor drainage
  - Septic tank back-ups, sewage hazards
  - Mud slides
  - Abnormal air pollution
  - Smoke or dust
  - Excessive noise
  - Vibrations or vehicular traffic
  - Excessive accumulations of trash
  - Vermin or rodent infestation, and
  - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply **unless a child under the age of six is expected to reside in the unit.**

# Chapter 15

## PART IV: SHARED HOUSING

[24 CFR 982.615 through 982.618; Form HUD-52641; Notice PIH 2021-05;  
New HCV GB, *Special Housing Types*]

### 15-IV. A. OVERVIEW

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experienced some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. **The unit may be a house or an apartment.** The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

PHAs should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.
- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.



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PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing.”

### 15-IV. B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the prorate share of the payment standard for the shared housing unit size.

The prorate share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

**Example:** Family holds a two-bedroom voucher.  
Shared housing unit size: bedrooms available to assisted family = 2  
Total bedrooms in the unit: 3  
2 Bedrooms for assisted family  
÷ 3 Bedrooms in the unit  
.667 pro-rata share  
2 BR payment standard: \$1200  
3 BR payment standard: \$1695  $\$1695 \times .667$  (pro-rata share) = \$1131 \$1131 is lower than the \$1200 payment standard for the 2 BR family unit size \$1131 is the payment standard used to calculate the HAP

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

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The utility allowance for an assisted family living in shared housing is the prorate share of the utility allowance for the shared housing unit.

**Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The prorate share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA **may** consider whether sanitary and food preparation areas are private or shared.

### OHCD Policy

OHCD does not operate Congregate Housing as a Special Housing type.

### 15-IV. C. HOUSING QUALITY STANDARDS

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (**voucher size**). A zero-bedroom or one-bedroom unit may not be used for shared housing.

# Chapter 15

## PART V: COOPERATIVE HOUSING

[24 CFR 982.619; *New HCV GB, Special Housing Types,*]

### 15-V. A. OVERVIEW

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” **The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.**

**The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.**

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used **with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”**

### 15-V. B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the **gross rent** (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

### 15-V. C. HOUSING QUALITY STANDARDS

All standard **HQS requirements apply to cooperative housing units. There are no additional HQS requirements. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.**

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No housing assistance payment can be made unless unit meets HQS, and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

### OHCD Policy

OHCD does not operate Cooperative Housing as a Special Housing type.

# Chapter 15

## PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; **New HCV GB, Special Housing Types,**]

### 15-VI. A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in **three** different ways.

- (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI. D below.
- (2) **A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.**
- (3) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

### 15-VI. B. SPECIAL **REQUIREMENTS** FOR MANUFACTURED HOMEOWNERS WHO LEASE A SPACE

#### Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

#### Lease and HAP Contract

There is a **designated HAP Contract (form HUD-52642)** and **designated** Tenancy Addendum (**form HUD 52642-A**) for this special housing type.

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## 15-VI. C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

### Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

### Utility Allowance

The PHA must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

### Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid utilities.

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## Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

## Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

## Rent Reasonableness

Initially, and **at least** annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing **assistance payment**, the owner **of the manufactured home space** certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the **same** manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

## 15-VI. D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI. A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

### ***Manufactured Home Tie-Down***

**A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.**

# Chapter 15

## PART VII: HOMEOWNERSHIP

[24 CFR 982.625 through 982.643]

### 15-VII. A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance described in the regulations: monthly homeownership assistance payments and single downpayment assistance grants. However, PHAs may not offer downpayment assistance until and unless funding is allocated by Congress. Since this has not happened, only monthly homeownership assistance may be offered.

Homeownership is defined as monthly homeownership assistance.

The PHA **may choose not to offer homeownership assistance. However, the PHA** must offer homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

#### OHCD Policy

OHCD will offer a First-Time Homebuyer Homeownership monthly homeownership payment for families that receive HCV assistance and meet the qualifications.



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## 15-VII. B. FAMILY ELIGIBILITY [24 CFR 982.627]

If the PHA Offers the homeownership option, participation by the family is optional. However, the family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

### OHCD Policy

OHCD will not establish a higher minimum income standard for disabled and/or non-disabled families.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- The family also satisfies all initial requirements established under section 15-VII.C.

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## OHCD Policy

- The HCV Homeownership Program is designed as a First-Time Homebuyer Program.
- No household or persons anticipated to occupy the proposed property had ownership (within the past 3 years) or currently has interest in residential property anywhere in the United States, foreign land or country.
- Adult household members who will legally share the financial responsibility for the 1st Trust financing has not received Payday Loans, Cash advances, Title loans or have negative checking and/or savings account balances within the last 6 months prior to applying for the program.
- The family must have a middle credit score at or above 660 to be eligible for selection or current VHDA minimum score requirement.
- The family must have all credit cards, old debt and medical collections paid off.
- The family must have a 6-month reserve for mortgage payment (escrow, etc.)
- The family must have all bills paid on time for one year.
- The family must be able to provide funds amounting to 3% of the sales price.
- Provide certification that the family has not filed for bankruptcy within the last 7 years.
- The family must show that they have secured their own financing for the home purchase and OHCD must approve the lender.
- Has obtained a recommendation from at least one prior landlord that the family is a good candidate for homeownership assistance and has no record of delinquent rent or damage claims while the family occupied the rental housing.
- The family must be in good standing with OHCD.
- Gross yearly income level is 2.5 times the Payment Standard for Voucher size.
- Debt ratios 32/40.

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## 15-VII. C. SELECTION OF FAMILIES [24 CFR 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate. (See 15-VII.B. Family Eligibility)

### OHCD Policy

On January 2005, OHCD began the Housing Choice Voucher Homeownership option on a pilot basis to assist a maximum of 15 families. The Homeownership was initially offered to those families participating in the Welfare to Work or the Family Self-Sufficiency program. Following the pilot, the program was offered to all HCV participants. Preference will be given to FSS participants who are expected to graduate within 2 months. The limit of participants remains at 15. Selected families must be approved by both the Supervisor and Director. OHCD will review each of the families yearly to determine the progress they are making towards reducing their need for subsidies by increasing family income. Also, OHCD will assess the impact of the homeownership option on the cost to administer the HCV program.

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## 15-VII. D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD’s “eligible housing” requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
  - ~~The unit must be under construction or already exist at the time the family enters into the contract or sale.~~
  - The unit must be a one-unit property or a single dwelling unit in a condominium.
  - The unit must have been inspected by the PHA and by an independent inspector designated by the family.
  - The unit must meet Housing Quality Standards (HQS) (see Chapter 8).
  - ~~For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.~~

~~Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for the unit until:~~

- ~~1. Either the responsible entity completes the environmental review as required by 24CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and~~
- ~~2. Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.~~

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

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## **15-VII. E. ADDITIONAL OHCD REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]**

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit.

### OHCD Policy

Once a family completes the required homeownership and housing counseling program and receives a certificate of completion, the family will have 60 days to find a home, execute a contract, get the home inspection and go to settlement.

During this period, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

If 60 days is not sufficient, the family may apply for extensions of 60 days upon documentation of need. All request for extensions must be submitted in writing to the PHA prior to the expiration of the period for which the extension is being requested. The PHA will approve or disapprove the extension request within 10 business days. The family will be notified of the PHAs decision in writing.

Total maximum search time is 120 days. If the family is unable to locate a property within 120 days, they are no longer eligible for the program and will be sent notification that their time has expired, and they can reapply after one year from the date of notification.

The home selected must be an existing home or under construction and located within Prince William County. The home must be fee simple.

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## 15-VII. F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in OHCD jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

### OHCD Policy

For HCV Homeownership assistance and before final eligibility determination and purchases, the family must attend a homeownership housing counseling program that will be provided by OHCD through the Virginia Cooperative Extension Office who are an approved HUD housing counseling agency. The program will include the following:

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1. Home Maintenance
2. Budgeting and Money Management
3. Credit Counseling
4. How to negotiate a contract for a home that conforms with OHCD requirements
5. How to locate financing, including pros and cons of different types of financing
6. How to find a home, including information about homeownership opportunities, schools and transportation
7. Advantages of homeownership in an area that does not have a high concentration of low-income families and how to locate homes in these areas
8. Information about the Real Estate Settlement Procedures Act (RESPA), State and federal truth and lending laws, and how to identify and avoid loans with oppressive terms and conditions
9. Information on Fair Housing including fair housing lending and local fair housing enforcement agencies, and
10. Post-Settlement counseling.

A Certificate of completion of the Homeownership and Housing Counseling must be provided to OHCD prior to final determination of eligibility for the HCV Homeownership Program.

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## 15-VII. G. HOME INSPECTIONS, CONTRACT OF SALE, AND OHCD DISAPPROVAL OF SELLER [24 CFR 982.631]

### Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

#### OHCD Policy

After the family locates a home, they wish to purchase and submits a copy of their purchase offer/contract, the PHA will conduct a housing quality standard (HQS) inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the Homeownership Program.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be licensed and qualified to report on property conditions, including major building systems and components.

The PHA cannot require the family to use an independent inspector selected by the PHA. The independent licensed inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

#### OHCD Policy

After the family has selected a home and before commencement of homeownership assistance, there are two mandatory inspections.

For the first inspection, the family must hire and pay for the cost of an independent professional home inspector who is qualified to report and to inspect the home for physical defects to assess the adequacy and life span of the major building components, building systems, appliances and other structural components. A copy of the inspection report must be provided to the family and OHCD. The inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector must not be a PHA employee. Once the inspection is completed, the lender will review the inspection report for accuracy and completeness. Based on these inspections, the family and OHCD will determine if there are any pre-purchase repairs that need to be discussed and decided upon by the seller and the family, the severity of the repairs, and whether the purchase transaction makes sense



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in light of the overall condition of the home and the likely cost of repairs and capital expenditures.

Second, the home must pass an initial OHCD Housing Quality Standard (HQS) inspection that will be performed by OHCD. The inspection is the normal initial HQS inspection conducted by OHCD for the Tenant-Based Rental Assistance Program. OHCD considers the home inspection requirement to be a critical step in the home selection process. The professional home inspection will disclose independent data concerning the age and condition of the home, especially those components of the home such as the roof, heating and air conditioning, and appliances that must be replaced based on the age and condition of the home. The affordability model will be used to measure the family's ability to pay housing and non-housing cost and replacement of the home's major systems and components.

The Statement of Family Obligations will include a requirement that the family maintain the unit once purchased in accordance with Federal HQS which requires an annual/biennial inspection. Any notice of deficiency would need to be corrected within the time limit specified in the notice. Failure to do so may result in termination of benefits under the program.

### Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser and OHCD;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs;
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24;
- Disclosure of Information on Lead-Based Paint and Lead-Based Hazards, and
- Condition of acquiring 1<sup>st</sup> trust financing.
- **A contract for the sale of a unit not yet under construction must meet all above requirements, and requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.**
  - **The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628; and**
  - **The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental**

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approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

### **Disapproval of a Seller**

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

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## 15-VII. H. FINANCING [24 CFR 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. OHCD must establish policies describing these requirements in the administrative plan.

### OHCD Policy

OHCD requires that families acquire financing from one of VHDA's participating lenders and must approve all financing before purchase.

Families, Lenders, and Counselors must consider the following when selecting a Mortgage Product:

OHCD does not permit balloon payment and variable interest rate loans for homeowner financing.

1. Seller financing is prohibited.
2. Financing for purchase of a home under its HCV homeownership program must be provided, insured, or guaranteed by the State or Federal government, comply with secondary mortgage market underwriting requirements, or comply with generally accepted private sector underwriting standards; or if the purchase of a home is financed with FHA mortgage insurance, financing is subject to FHA mortgage insurance requirements.

The mortgage the family applies for must require a minimum downpayment of at least 3% of the sales prices with 1% of the downpayment coming from the purchaser's personal funds. OHCD will not require that the family have any more than the minimum 1% of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by the lending institution.

A family's may request to utilize its Family Self-Sufficiency escrow account for downpayment and/or closing cost when purchasing a unit under the HCV homeownership option if homeownership is a goal.

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## 15-VII. I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of any mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA, or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The Program Lien will not be subordinated at any time during the lien period to a Home Equity Loan, other loan, or refinances of the first loan that result in removal of equity from the property for any reason (i.e., cash, loan consolidation, debt repayment, home improvements, education expenses, etc.)
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on a mortgage securing any debt incurred used to purchase the home.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- During the time the family receives homeownership assistance under this subpart, no family member may have any ownership interest in any other property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to

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assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

### OHCD Policy

Post-purchase requirements are found in the Statement of Homeowner Obligations Form (HO-103). See Exhibit 15-1. If *Key to Own Participants* do not meet these responsibilities the participants may be terminated from the HCV Homeownership Program. Any inspection conducted by OHCD will be performed every other year. The family will be required to make the repairs to bring the property into HQS compliance.

An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for different unit under any duplicative Federal, State or local housing assistance program.

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## 15-VII. J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.

The maximum term described above applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

### OHCD Policy

The maximum term for OHCD HCV Homeownership assistance will be for 15 years if the 1<sup>st</sup> trust financing is 20 years or longer. If elderly or disabled family makes application for the Homeownership assistance, the assistance will be for the life of the loan. If the family ceases to qualify as disabled or elderly family, the maximum term of assistance will be 15 years from when the homeownership assistance commenced along with an additional 6 months of homeownership assistance. **If an elderly or disabled family pays the entire mortgage payment without any HAP assistance for at least 180 days, the HAP assisted will terminate.**

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## 15-VII. K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) the payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) the payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

### OHCD Policy

OHCD housing assistance payment will be paid directly to the family. It will be the family's responsibility to make the entire payment to the lender. OHCD may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, OHCD must pay the excess to the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

### OHCD Policy

In order for OHCD to consider granting relief from the requirement to automatically terminate homeownership assistance 180 days following OHCD's last housing assistance payment on behalf of the family, the family must submit a request to OHCD at least 30 days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. OHCD will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will OHCD postpone termination beyond an additional 90 days.

Homeownership expenses (not including cooperatives) **must** include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;

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- The PHA utility allowance for the home;
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.



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## OHCD Policy

Homeownership expenses only include amounts

- Monthly Homeownership Payments – This includes principal and interest on initial mortgage debt, taxes and insurance, and any mortgage insurance premium, if applicable.
- Utility Allowance – OHCD utility allowance for the unit, based on the current HCV utility allowance table based upon the voucher size or unit whichever is less.
- Monthly Maintenance /Repair Allowance – The monthly maintenance/repair allowance will be the annual amount divided by twelve. The annual allowance will be set at .5% of the purchase price.
- Monthly Co-op/Condominium Assessment – If applicable, the monthly amount of co-op or condominium association operation and maintenance assessment.
- Monthly Principal & Interest on Debt Improvements – Principal and interest for major home repair, replacement, or improvements if applicable.

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## 15-VII. L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

### OHCD Policy

A family may qualify to move outside of OHCD's jurisdiction with continued tenant-based assistance under the voucher program if **all** of the following criteria apply:

1. For homeownership assistance, the receiving PHA must be absorbing a voucher homeownership program and be accepting new homeownership families.
2. The family must sell its current home and pay all mortgages and liens on the property in order to purchase and port to another home.
3. The receiving PHA:
  - Will have the same administrative responsibilities of the initial PHA except that some administrative functions (e.g., issuance of a voucher or execution of a tenancy addendum) do not apply.
  - Must absorb the family into its voucher program.
  - Will determine if financing and physical condition of the unit is acceptable and all homeownership policies apply.
  - The maximum term of homeownership assistance applies to the cumulative time the family has received homeownership assistance. The total must **not** exceed the maximum term of 15 years unless elderly or disabled.

Note: All portability policies that are in place for the HCV rental assistance program are applicable to the HCV homeownership program. All homeownership program eligibility criteria will apply, i.e., the family must be a participant with the PHA's rental program for one year and in good standing, etc.

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## 15-VII. M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

### OHCD Policy

OHCD will not allow a family receiving homeownership assistance to purchase another home because the HCV Homeownership Program is designed as a First-Time Homebuyer Program. To be a First-Time Homebuyer no household or persons anticipated to occupy the proposed property had ownership (within the past 3 years) or currently has interest in residential property anywhere in the United States, foreign land or country.

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Please see 15-VII.L. PORTABILITY requirements.

The family can receive a tenant-based voucher assistance if **all** of the following criteria are met:

1. The family has not had a mortgage loan default.
2. The family sells its current home under the HCV homeownership assistance.
3. There are no recapture provisions associated with the family's home; therefore, the family may keep any profits or proceeds from the sale of the home
4. All eligibility criteria applicable to the first home purchase are met. The only exception to the eligibility requirements is that the family would not meet the first-time homebuyer requirement.
5. The maximum term of homeownership assistance applies to the cumulative time the family has received homeownership assistance. The total must **not** exceed the maximum term of 15 years.

**OHCD will only allow one move by the family during a one-year period.**

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## 15-VII. N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

Homeownership assistance for a family automatically terminates 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

### OHCD Policy

OHCD will terminate a family's homeownership assistance if the family violates any of the homeownership obligations listed in Section I, as well as for any of the reasons listed in Section 2 of form HUD-52649. Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

In making its decision to terminate homeownership assistance, OHC will consider alternatives as described in Section 12.II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, OHCD may, on a case-by-case basis, choose not to terminate.

Termination notices will be sent in accordance with the requirements and policies set forth in Section 12.II.F.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and
- The family has moved, or will move, from the home within the period established or approved by HUD.

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## CHAPTER 16

### PROGRAM ADMINISTRATION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for Informal Reviews and hearings, and for Informal Hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Elevated Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with elevated blood lead levels that are less than six years of age and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

## CHAPTER 16

### **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]**

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

#### OHCD Policy

Expenditures from the UNP Account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$44,999 per occurrence without the prior approval of OHCD’s Housing Board.



## CHAPTER 16

### PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

#### 16-II.A. OVERVIEW

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

#### OHCD Policy

Copies of the payment standard and utility allowance schedules are available for review in OHCD's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

OHCD will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-1. G.).

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### 16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

#### Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

#### OHCD Policy

OHCD will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" OHCD will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** OHD will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. OHCD will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly-adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, OHCD will consider increasing the payment standard. In evaluating rent burdens, OHCD will not include families renting a larger unit than their family unit size.

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**Quality of Units Selected:** OHCD may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

**Changes in Rent to Owner:** OHCD may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** OHCD will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** OHCD will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Effective dates of changes to payment standard amounts will be determined at time of update. Updates must be effective no later than 3 months following the FMR effective date. The PHA will always ensure the payment standards will be within the basic range.

### **Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01, FR Notice 9/27/21]**

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

**In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).**

## CHAPTER 16

### **Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

#### OHCD Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, OHCD must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area.

## CHAPTER 16

### **Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

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### 16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rate.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Shared utilities are not permitted. The owner of an assisted unit may not bill HCV participants for master-metered utilities unless the building is equipped with sub-meters that allow the owner to invoice the tenants of a building or complex based on actual consumption and utility rates.

### **Air Conditioning**

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

#### OHCD Policy

OHCD has included an allowance for air-conditioning in its schedule. Central air conditioning or a portable air conditioner must be present in a unit before OHCD will apply this allowance to a family's rent and subsidy calculations.

The air-conditioning allowance shall be applied when the following three criteria are met:

- 1) The participant is responsible for payment of the air conditioning utility as indicated within the HUD 52641 and HUD;
- 2) Central air-conditioning or a portable air conditioner must be present in the unit; and
- 3) The windows are designed not to open (e.g., high rise) or Reasonable Accommodation has been approved.

## CHAPTER 16

### **Reasonable Accommodation**

HCV program regulations require a PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

### **Utility Allowance Revisions**

The PHA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## CHAPTER 16

### PART III: INFORMAL REVIEWS AND HEARINGS

#### 16-III.A. OVERVIEW

Both applicants and participants have the right to appeal certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “Informal Review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “Informal Hearing.” PHAs are required to include Informal Review procedures for applicants and Informal Hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].



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### 16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for but has not yet been admitted to the program. Informal Reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554]. *Federal Register* 60, no. 127 (3 July 1995): 34690].

#### **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an Informal Review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a)(2)]:

- Denying listing on the PHA waiting list;
- Denying or withdrawing a voucher;
- Refusing to enter into a HAP contract or approve a lease;
- Refusing to process or provide assistance under portability procedures.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA subsidy standards;
- A PHA determination not to approve an extension of a voucher term;
- A PHA determination not to grant approval of the tenancy;
- A PHA determination that the unit is not in compliance with the HQS;
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition.

#### OHCD Policy

OHCD will only offer an Informal Review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the OHCD waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

#### **Notice to the Applicant [24 CFR 982.554(a)]**

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA decision and must also state that the applicant may request an Informal Review of the decision, and how to obtain it.

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### Scheduling an Informal Review

#### OHCD Policy

A request for an Informal Review must be made in writing and delivered to OHCD either in person, fax, e-mail or by first class mail, by the close of the business, no later than 10-business days from the date of the Denial Notice.

OHCD must schedule and send written notice of the Informal Review within 10-business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

- Regarding the processes to conduct a remote informal review;
- That, if needed, the PHA will provide technical assistance prior to and during the informal review; and
- That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate

#### **Informal Review Procedures [24 CFR 982.554(b)]**

The Informal Review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

#### **Remote Informal Reviews [Notice PIH 2020-32]**

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

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### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audiodescription, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual **their** inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

### **Conducting Remote Informal Reviews**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The

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family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and process for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

The PHA must ensure that the person has the right to hear and be heard.

### OHCD Policy

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP .

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### **Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

#### OHCD Policy

In rendering a decision, OHCD will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. OHCD will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, OHCD will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, OHCD will consider the recommendation of the person conducting the Informal Review in making the final decision whether to deny assistance.

OHCD will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the Informal Review, to the applicant and **their** representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the Informal Review, processing for admission will resume.

If the family fails to participate in their Informal Review, the denial of admission will stand, and the family will be so notified.

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### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an Informal Hearing for certain PHA determinations relating to the individual circumstances of a participant. A participant family is defined as an individual or family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of an Informal Hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the participant family's head of household to request an Informal Hearing has elapsed, and any requested hearing has been completed.

#### OHCD Policy

In decisions that are subject to an Informal Hearing, and pertain to a determination to terminate assistance, OHCD is not permitted to stop HAP (unless a Breach of the HAP Contract by the landlord has occurred) and/or UAP under an outstanding HAP contract until the time allowed for the family to request an Informal Hearing has elapsed, and any requested hearing has been completed. If a request for an Informal Hearing has been received by OHCD within the OHCD required timeframe, HAP and UAP will continue to be paid under the outstanding HAP contract until a Notice of Final Decision (NFD) is issued.

OHCD will not allow family initiated moves during the Informal Hearing process. At the discretion of OHCD, a family may be granted the ability to move during the Informal Hearing process if OHCD deems the move to be involuntary. An involuntary move includes, but is not limited to, the following circumstances:

1. Landlord caused abatements where the move process is triggered under Chapter 8;
2. VAWA is triggered under Chapter 16;
3. The landlord opts out of the HAP Contract at the Annual Re-Examination;
4. The foreclosure process is completed, and the move process is triggered under Chapter 13; or
5. The landlord has breached the HAP contract and has been removed from the program by HCV Compliance staff.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

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### Decisions Subject to Informal Hearing

Circumstances for which the PHA must give a participant family an opportunity for an Informal Hearing are as follows:

- A determination of the participant family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule;
- A determination of the participant family unit size under the PHA's subsidy standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHAA policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an Informal Hearing is not required are as follows:

- Discretionary administrative determinations by the PHA;
- General policy issues or class grievances;
- Establishment of the PHA schedule of utility allowances for families in the program;
- A PHA determination not to approve an extension of a voucher term;
- A PHA determination not to approve a unit or tenancy;
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS;
- A PHA determination that the unit is not in accordance with HQS because of family size;
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

#### OHCD Policy

OHCD will offer participants the opportunity for an Informal Hearing only when required to by the regulations.

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### Remote Informal Hearings [Notice PIH 2020-32]

The PHA's essential responsibility is to ensure Informal Hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote Informal Hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

#### OHCD Policy

OHCD has the sole discretion to require that Informal Hearings be conducted remotely.

In addition, OHCD will conduct an Informal Hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the Informal Hearing, or if the participant believes an in-person hearing would create an undue health risk. OHCD will consider other reasonable requests for a remote Informal Hearing on a case-by-case basis.

### Conducting Informal Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

#### OHCD Policy

The OHCD will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.



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At least five business days prior to scheduling the remote hearing, OHCD will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify OHCD of any known barriers. OHCD will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The OHCD will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

### **Informal Hearing Procedures**

#### ***Notice to the Family [24 CFR 982.555(c)]***

When the PHA makes a decision that is subject to Informal Hearing procedures, the PHA must inform the family of its right to an Informal Hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an Informal Hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the PHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision the family may request an Informal Hearing on the decision, and a statement of the deadline for the family to request an Informal Hearing.

#### **OHCD Policy**

In cases where OHCD makes a decision for which an Informal Hearing must be offered, the written notice to the family will include all of the following:

1. The proposed action or decision of OHCD.
2. A brief statement of the reasons for the decision, including the regulatory reference.
3. The date the proposed action will take place.
4. A statement that if the family's right to an explanation of the basis for the decision.
5. A statement that if the family does not agree with the decision the family may request an Informal Hearing of the decision.
6. A deadline for the family to request an Informal Hearing.

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7. To whom the hearing request should be addressed.
8. A copy of OHCD hearing procedures.
9. That the family may request a remote Informal Hearing.

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the family informing them of the right to request an Informal Hearing, the family will be notified that the Informal Hearing will be conducted remotely. The family will be informed of the processes involved in a remote Informal Hearing and that the PHA will provide technical assistance, if needed, before the Informal Hearing.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an Informal Hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### OHCD Policy

A request for an Informal Hearing must be made in writing and delivered to OHCD either in person, by electronic means, or by first class mail, by the close of the business day, no later than 10 business days from the date of the termination notice.

Within 10 business days of the family's request, OHCD will send written notice to the family, either scheduling the hearing or notifying the family that an extension is granted to schedule a hearing.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Request to reschedule a hearing must be made orally or in writing 48 hours prior to the hearing date. At its discretion, the OHCD may request documentation of the "good cause" prior to rescheduling the hearing. The family is only allowed to reschedule the hearing one time.

If the family does not appear within 20 minutes of the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the OHCD within 24 hours of the scheduled hearing date, excluding weekends and holidays. The OHCD will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

***Pre-Hearing Conferences:*** OHCD staff may need to conduct a pre-hearing conference with a participant prior to an Informal Hearing to determine whether there is a preponderance of evidence to support the termination. OHCD staff will discuss with the participant the reasons for the action taken and the participant's explanation of relevant events and actions. A pre-hearing conference is discretionary.

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The pre-hearing conference may be performed via phone, or it can be a face-to-face meeting at OHCD's discretion. At the pre-hearing conference, OHCD staff will share with the participant the information, which is causing the potential action including termination action.

If the matter is resolved with a pre-hearing conference the action will take place. If, however, the matter cannot be resolved with a pre-hearing conference, OHCD will proceed with the Informal Hearing process.

After a decision is made at the pre-hearing conference, or if no pre-hearing conference is held, OHCD must submit the request for an Informal Hearing to Hearing Officer in a reasonable expeditious manner.

OHCD is responsible to schedule hearings and notifies all parties.

### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of Informal Hearings, *documents* include records and regulations.

#### OHCD Policy

The family and OHCD must provide to the other party copies of any proposed exhibits related to the hearing no later than one week prior to the scheduled hearing date. If the participant wishes any additional documents in OHCD possession, they must submit a FOIA request through the Freedom of Information Act (FOIA) Coordinator.

If the hearing will be conducted remotely, OHCD will compile a hearing packet, consisting of all documents OHCD intends to produce at the Informal Hearing. OHCD will mail copies of the hearing packet to the family, the family's representatives, if any, and the Hearing Officer at least 10 business days before the scheduled remote Informal Hearing. The original hearing packet will be in the possession of the OHCD representative and retained by OHCD.

Documents will be shared electronically whenever possible.

PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA office before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

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### OHCD Policy

For in-person hearings, OHCD will not require pre-hearing discovery by OHCD of family documents directly relevant to the hearing.

If the Informal Hearing is to be conducted remotely, OHCD will require the family to provide any documents directly relevant to the Informal Hearing at least 24 hours before the scheduled hearing. OHCD will scan and email copies of these documents to the Hearing Officer and the OHCD representative at the same day.

Documents will be shared electronically whenever possible.

### ***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the Informal Hearing.

#### OHCD Policy

OHCD reserves the right to be represented by legal counsel.

### ***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal Hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

#### OHCD Policy

OHCD will assign one County staff to adjudicate OHCD Informal Hearings for closures and another for all other actions taken by OHCD.

### ***Attendance at an Informal Hearing***

#### OHCD Policy

Hearings may be attended by the OHCD's assigned County Staff, the Petitioner, and the OHCD representative and may include the following additional persons:

- A OHCD representative(s) (including legal counsel) and any witnesses for the OHCD
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the OHCD as a reasonable accommodation for a person with a disability

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### ***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

#### OHCD Policy

The Hearing Officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. All Hearing will be digitally recorded. If recording is requested will be sent electronically. Attendees are expected to comply with all hearing procedures established by the Hearing Officer and guidelines for conduct which includes sequester of Respondent or Petitioner witnesses. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the Hearing Officer.

### ***Evidence [24 CFR 982.555(e)(5)]***

The PHA and the family must be given the opportunity to present evidence and question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

#### OHCD Policy

Any evidence to be considered by the Hearing Officer must be presented at the time of the hearing or 24 hours before the hearing if conducted remotely. There are four categories of evidence.

1. **Oral evidence:** the testimony of witnesses.
2. **Documentary evidence:** a writing, which is relevant to the case, for example, a letter written to OHCD. Writings include all forms of recorded communication or representation, including letters, words, pictures, and sounds, videotapes, symbols, or combinations thereof.
3. **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the Hearing Officer, such as a model, a chart or other diagram.
4. **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence:* Evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the Hearing Officers decision. [24 CFR 982.555(e)(6)]

If either the OHCD or the family fail to comply with the discovery requirements described above, the Hearing Officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the Hearing Officer has the authority to overrule any objections to evidence.

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### *Procedures for Rehearing or Further Hearing*

#### OHCD Policy

The Hearing Officer may ask the family or OHCD for additional information and/or might adjourn the hearing in order to reconvene later before reaching a decision. If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the OHCD will take effect and another hearing will not be granted.

### *Hearing Officer's Decision [24 CFR 982.555(e)(6)]*

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

#### OHCD Policy

In rendering a decision, the Hearing Officer will address the following matters:

- **OHCD Notice to the Family:** The Hearing Officer will determine if the reasons for OHCD's decision are factually stated in the Notice.
- **Discovery:** The Hearing Officer will determine if OHCD and the family were given the opportunity to examine any relevant documents in accordance with OHCD policy.
- **OHCD Evidence to Support the OHCD Decision:** The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The Hearing Officer will evaluate the facts to determine if they support OHCD's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The Hearing Officer will conclude if the termination of assistance is for one of the grounds specified in the HUD regulations and OHCD policy. If the grounds for termination are not specified in the regulations or in compliance with OHCD policies, then the decision of OHCD will be overturned.

The Hearing Officer will issue a written "Notice of Hearing Decision" to the family and OHCD no later than 10 business days after the hearing. The report will contain the following information:

#### **Hearing information:**

Name of the participant;

Date, time and place of the hearing;

Name of the Hearing Officer;

Name of the OHCD representative; and

Name of family representative (if any).

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**Background:** A brief, impartial statement of the reason for the hearing.

**Summary of the Evidence:** The Hearing Officer will summarize the testimony of each witness and identify any documents that a witness produced in support of **their** testimony and that are admitted into evidence.

**Findings of Fact:** The Hearing Officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The Hearing Officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a recommendation of whether these facts uphold OHCD's decision.

**Order:** The hearing report will include a statement of whether the OHCD's decision is upheld or overturned. If it is overturned, the Hearing Officer will instruct the OHCD to change the decision in accordance with the Hearing Officer's determination. In the case of termination of assistance, the Hearing Officer will instruct the OHCD to restore the participant's program status.

### ***Issuance of Decision [24 CFR 982.555(e)(6)]***

A copy of the hearing must be furnished promptly to the family.

#### OHCD Policy

The Hearing Officer will either e-mail electronically or mail the "Notice of Hearing Decision" to OHCD and the participant at the same time. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file.

### ***Effect of Final Decision [24 CFR 982.555(f)]***

The PHA is not bound by the decision of the Hearing Officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the Hearing Officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the Hearing Officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

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### OHCD Policy

The Director has the authority to determine that the PHA is not bound by the decision of the Hearing Officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the Hearing Officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state or local laws.

OHCD Director will either e-mail electronically or mail the “Notice of Hearing Decision” to all parties. A copy of the “Notice of Hearing Decision” will be maintained in the PHA’s file.



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### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an Informal Hearing, not an Informal Review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of an Informal Hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA Informal Hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

#### **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an Informal Hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the Informal Hearing process.

#### **USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

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### OHCD Policy

OHCD will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide OHCD with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an Informal Hearing.

### OHCD Policy

OHCD will send written notice to the family of its right to request an Informal Hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

### **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The Informal Hearing procedures for applicant families are described below.

### ***Informal Hearing Officer***

The PHA must provide an Informal Hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C. for a listing of positions that serve as Informal Hearing Officers.

### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

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### OHCD Policy

The family and OHCD must provide to the other party copies of any documents related to the hearing no later than one week prior to the scheduled hearing date.

OHCD must be given an opportunity to examine before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an Informal Hearing, the hearing appointment notice will automatically include a statement to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant or the participant's legal counsel must make the documents available no later than 5 business days prior to the scheduled hearing date.

If the family is being represented by legal counsel, OHCD shall be advised of the name and contact information of said legal counsel no later than 5 business days prior to the hearing. Upon receipt of said contact information all communication related to the hearing shall be between OHCD and the family's legal counsel.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may but is not required to provide a transcript of the hearing.

#### OHCD Policy

OHCD will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 10-business days of the date of an Informal Hearing. The decision must state the basis for the decision.

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### **Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the appeal or the PHA Informal Hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original hearing
- The signed verification consent form
- The verification results
- The request for an appeal
- The final determination
- The request for an Informal Hearing
- The final Informal Hearing decision

## CHAPTER 16

### PART IV: OWNER OR FAMILY DEBTS TO THE PHA

#### 16-IV.A. OVERVIEW

PHAs are required to include in the administrative plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. **If the family breaches an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA, the PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii).** This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### OHCD Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, OHCD holds the owner or participant liable to return any overpayments to OHCD.

OHCD will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

When an owner or participant refuses to repay monies owed to OHCD, OHCD will refer the debt to the County Attorney for collections.

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### 16-IV.B. REPAYMET POLICY

#### Owner Debts to the PHA

Owners are in the rental housing business and should therefore be able to repay a debt more quickly than participant families. Based on this reasoning, the model plan states that owners are required to repay the full amount of any debt within 30 days.

#### OHCD Policy

OHCD is required to determine the amount of overpaid subsidy owed for all years that OHCD has documentation of overpayment. All overpaid rental subsidy must be repaid to OHCD.

Any amount due to OHCD by an owner must be repaid by the owner within 30 days of OHCD determination of the debt.

If the owner fails to repay the debt within the required period and is entitled to future HAP payments, OHCD will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments OHCD may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by OHCD. If no repayment agreement is offered and/or negotiated, continued collection efforts will be made including the referral of the debt for collection.

If the owner refuses to repay the debt, refused to enter into a repayment agreement, if offered, or breaches a repayment agreement, OHCD may exercise its right to ban the owner from future participation in the program and refer the debt for collection.

**When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:**

- Collection agencies**
- Small claims court**
- Civil lawsuit**
- State income tax set-off program**

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### **Family Debts to the PHA**

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

#### OHCD Policy

OHCD is required to determine the amount of overpaid subsidy owed for all years that OHCD has documentation of family unreported/under-reported income. All overpaid rental and/or utility subsidy must be repaid to OHCD.

Any amount owed to OHCD by a HCV family must be repaid by the family. If the amount of overpayment is greater than \$3,600 the family must pay down the debt to \$3,600 in order to enter into a repayment agreement and continue participation in the Housing Choice Voucher Program. If the family is unable to repay the debt within 30 days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

#### **Refusal to Enter into an Agreement**

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, OHCD **must** terminate assistance [Notice PIH 2018-18]

#### OHCD Policy

When a family refuses to repay monies owed to OHCD, in addition to termination of program assistance, OHCD will utilize other available collection alternatives including, but not limited to the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

### **Repayment Agreement [24 CFR 792.103]**

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

#### OHCD Policy

OHCD staff will notify the participant of the amount and terms of the repayment agreement. OHCD staff will notify the participant of the ramifications of failure to comply with the terms of the repayment agreement. The participant is required to sign the Repayment Agreement within thirty days of notification to legally execute the

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Repayment Agreement and avoid program termination. If the participant does not sign the Repayment Agreement, OHCD will proceed with termination. If a review is requested and the Repayment Agreement is not signed, OHCD will proceed with termination and coordinate the review.

The participant will continue to receive rental assistance, as allowable under HUD regulations, as long as they adhere to the terms and conditions of the executed Repayment Agreement.

### **General Repayment Agreement Guidelines for Families**

#### ***Down Payment Requirement***

##### OHCD Policy

Before entering a repayment agreement with a family, OHCD will generally require a down payment based upon a sliding scale established and reviewed annually. If the family can provide satisfactory evidence to OHCD that a downpayment would impose an undue hardship, OHCD may require a lesser amount.

#### ***Payment Thresholds***

Notice PIH 2018-18 recommends that the total amount that a family must pay each month-the family's monthly share of rent plus the monthly debt repayment amount-should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 percent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHA's have the discretion to establish "thresholds and policies" for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

##### OHCD Policy

OHCD has established the following thresholds for repayment of debts:

The length of the repayment agreement cannot exceed thirty-six (36) months unless the family provides evidence of a hardship.

A hardship is defined as:

- Family income has decreased due to a loss of income. Tenant must provide verification of the decrease of income.
- Death has occurred in the family. Family must describe how the death has created a financial hardship such as funeral-related expenses for a member of the household or the loss of the family member's income. The tenant must provide verification of the death and relationship.



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For approved hardship cases, the maximum repayment agreement cannot exceed sixty (60) months regardless of the amount owed. If a family can provide evidence satisfactory to OHCD that the threshold applicable to the family's debt would impose an undue hardship, OHCD may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, OHCD will consider all relevant information, including the following:

- The amount owed by the family to OHCD;
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;
- The family's current and potential income and expenses;
- The family's current family share, as calculated under 24 CFR 982.515;
- The family's history of meeting its financial responsibilities. The minimum monthly payment amount is \$25.
- For small debts (less than \$50), the Repayment Agreement will be executed so that participants pay the entire amount in one lump sum. For example, if a participant owes \$45, a lump sum Repayment Agreement must be executed.

If a household is in a Repayment Agreement and request a hardship extension, OHCD may reduce the number of payments and/or add payment months to the Agreement up to 60 months.

### ***Execution of the Agreement***

**All repayment agreements must be in writing, dated and signed by both the family and the PHA [Notice PIH 2018-18].**

#### OHCD Policy

Any repayment agreement between OHCD and a family must be signed and dated by OHCD and by the head of household and spouse/co-head (if applicable).

### ***Due Dates***

#### OHCD Policy

All payments are due by the close of business on the 10<sup>th</sup> day of the month. If the 10<sup>th</sup> does not fall on a business day, the due date is the close of business on the first business day after the 10<sup>th</sup>.

If the participant sends more than the monthly payment due, OHCD will count this money towards the principal.

### ***Late or Missed Payments***

#### OHCD Policy

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If a full payment is not received by the end of the business day on the date due, OHCD will send the family a delinquency notice giving the family 10 business days to bring the account current. If the payment is not received by the due date of the first delinquency notice, it will be considered a breach of the agreement and OHCD will terminate assistance in accordance with the policies in Chapter 12.

If a family becomes delinquent more than 3 time during the repayment period, the repayment agreement will be considered in default, and OHCD will terminate assistance in accordance with the policies in Chapter 12 unless the family pays the entire debt in full within 30 calendar days.

Inactive Participant [No longer receiving HCV benefits]: If a participant is no longer receiving HCV benefits but was in a Repayment Agreement at the time of termination, OHCD will notify the family the balance of the Repayment Agreement due. OHCD may offer the family the option to enter into a Promissory Note to pay the balance due in monthly installment. If the family chooses not to pay the balance in full or enter into a Promissory Note, OHCD will pursue judgement and collection.

### ***No Offer of Repayment Agreement***

#### **OHCD Policy**

OHCD generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family. If a new overpayment is established while in a repayment status, the new overpayment amount must be paid in full in order to continue receiving assistance. The original Repayment Agreement must continue to be paid.

Repayment agreements will be limited to two per family for the life of the voucher.

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### Repayment Agreements **Terms**

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

1. A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the PHA may terminate assistance because of a family's action or failure to act
2. A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner
3. A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases

### OHCD Policy

OHCD will limit renegotiation of the participant's Repayment Agreement to one renegotiation during the term of the Repayment Agreement. Repayment Agreements will be renegotiated in compliance with OHCD's Repayment Agreement policies as outlined in this Chapter.

Arrearages of less than 60 days must be paid in full before the Repayment Agreement will be renegotiated. A participant 61 days or more delinquent must immediately pay the greater of the total arrearage or 25% of the entire debt before OHCD staff person can renegotiate the Repayment Agreement.

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### PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) [24 CFR 985]

#### 16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability [24 CFR 985.103].
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 CFR 985.106].
  - PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated “troubled” may not use any part of the administrative fee reserve for other housing purposes [24 CFR 985.107].
- HUD may determine that a PHA's failure to correct identified SEMAP deficiencies or to prepare and implement a corrective action plan required by HUD constitutes a default under the ACC [24 CFR 985.109].

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### **16-V.B. SEMAP CERTIFICATION [24 CFR 985.101]**

PHAs must submit the HUD-required SEMAP certification form within 60 calendar days after the end of its fiscal year. The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as “troubled” [24 CFR 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of “troubled.”

A PHA’s SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA’s SEMAP certification, HUD will rate the PHA’s performance under each SEMAP indicator in accordance with program requirements.

### **HUD Verification Method**

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 CFR 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 CFR 985.3].

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### 16-V.C. SEMAP INDICATORS [24 CFR 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than \$300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not rated under SEMAP indicators 1-7.

SEMAP Indicators
<p><b>Indicator 1: Selection from the waiting list</b> <b>Maximum Score: 15</b></p> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list.</li><li>• Points are based on the percent of families that are selected from the waiting list in accordance with the PHA’s written policies, according to the PHA’s quality control sample.</li></ul>
<p><b>Indicator 2: Rent reasonableness</b> <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units</li><li>• Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA’s quality control sample.</li></ul>
<p><b>Indicator 3: Determination of adjusted income</b> <b>Maximum Score: 20</b></p> <ul style="list-style-type: none"><li>• This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.</li><li>• Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample.</li></ul>
<p><b>Indicator 4: Utility allowance schedule</b> <b>Maximum Score: 5</b></p> <ul style="list-style-type: none"><li>• This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.</li><li>• Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA’s certification.</li></ul>

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### **Indicator 5: HQS quality control inspections**

#### **Maximum Score: 5**

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

### **Indicator 6: HQS enforcement**

#### **Maximum Score: 10**

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

### **Indicator 7: Expanding housing opportunities**

#### **Maximum Points: 5**

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

### **Indicator 8: FMR limit and payment standards**

#### **Maximum Points: 5 points**

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

### **Indicator 9: Annual reexaminations**

#### **Maximum Points: 10**

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

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### **Indicator 10: Correct tenant rent calculations**

#### **Maximum Points: 5**

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

### **Indicator 11: Pre-contract HQS inspections**

#### **Maximum Points: 5**

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

### **Indicator 12: Annual HQS inspections**

#### **Maximum Points: 10**

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

### **Indicator 13: Lease-up**

#### **Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year, or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year-end operating statement that is recorded in HUD's accounting system.

### **Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**

#### **Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.



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### **Success Rate of Voucher Holders**

#### **Maximum Points: 5**

- Only applies to PHAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

### **Deconcentrating Bonus Indicator**

#### **Maximum Points: 5**

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50-percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50<sup>th</sup> percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

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### PART VI: RECORD KEEPING

#### 16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

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### 16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.101]

During the term of each assisted lease, and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.
- **The PHA must keep the last three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three years from the end of participation (EOP) date [24 CFR 908.101].**
- **The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three years from the EOP date [Notice PIH 2018-18].**
- Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.
- The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcome of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

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If an Informal Hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16.III.D., Retention of Documents.

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### 16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

#### OHCD Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized OHCD staff and contracted agents.

OHCD staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff and contracted agents will result in disciplinary action.

#### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or the PHA may release the information collected.

#### **Upfront Income Verification (UIV) Records**

PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) system are required to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded (e.g. electronic, paper). These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data*.

#### OHCD Policy

Prior to utilizing HUD's EIV system, OHCD will adopt and implement EIV security procedures required by HUD.

#### **Criminal Records**

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for

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which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR 5.905.

### **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

#### OHCD Policy

When documents are received containing a person's diagnosis or treatment for a disability, a replacement document will be prepared for the participant file removing this information. The original document will be destroyed.

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

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### **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL**

#### **16-VII.A. OVERVIEW**

The PHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

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### **16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); Notice PIH 2017-13]**

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

#### OHCD Policy

Upon notification by the owner, OHCD will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, OHCD will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.



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### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### OHCD Policy

The public health department has stated they do not wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, OHCD is not providing such a report.

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### PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

#### 16-VIII.A. OVERVIEW

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

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### 16-VIII.B. METHODOLOGY

#### OHCD Policy

OHCD will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing OHCD's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, OHCD will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, **and funding reserves**, or if OHCD cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, OHCD will be considered to have insufficient funding.

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### **PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

#### **16-IX.A. OVERVIEW**

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections:

3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, or Stalking”; and 12-II.F, “Termination Notice.”

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### 16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for **their** safety or the safety of others or suffer substantial emotional distress.

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### 16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

#### Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA including their right to confidentiality. There are two sample notices and three HUD-required forms used in connection with VAWA. These are found as Exhibits 16-1 through 16-5 at the end of the chapter.

#### OHCD Policy

OHCD will post the following information regarding VAWA in its offices and on its web site. It will also make the information readily available to anyone who requests it.

- Exhibit 16-1 is HUD's sample Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD 5380. OHCD will edit the sample form to include specific information and contact information for local domestic violence service providers.
- Exhibit 16-2 is the HUD required Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternative Documentation Form HUD-5382.
- Exhibit 16-3 is a Nan McKay version of HUD's sample Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking form HUD-5381. OHCD must revise this sample form to reflect OHCD specific information based upon housing types administered by OHCD.
- Exhibit 16-4 is a HUD required Emergency Transfer for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD-5383.
- Exhibit 16-5 is a Nan McKay sample Notice to HCV Owners and Managers. Since this is not a HUD required form, OHCD may revise it to reflect local policies.
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (OHCD 1631 and OHCD 1632)

#### Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

#### OHCD Policy

OHCD will provide all applicants with information about VAWA at the time they request an application for housing assistance as part of the written briefing packet, and at the time the family is admitted to the program. OHCD will also include information about VAWA in all notices of denial of assistance (see section 3-11.G)

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OHCD will provide all participants with information about VAWA at the time of admission see section 5-I.B and at re-examination. OHCD will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and 16.2.

The PHA is not limited to providing all applicants with information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative deliver arrangements that will not put the victim at risk.

### OHCD Policy

Whenever OHCD has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, OHCD may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, OHCD will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

### **Notification to Owners and Managers [24 CFR 5.2005(a)(2)]**

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

### OHCD Policy

OHCD will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking and Alternative Documentation.

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### 16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA’s request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record.
- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person’s belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under “Conflicting Documentation,” nor may it require certification in addition to third-party documentation [VAWA final rule].

#### OHCD Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

OHCD may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, OHCD will consider factors that may contribute to the victim’s inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative



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delays, the danger of further violence, and the victim's need to address health and safety issues. Any extension by OHCD will be in writing.

Once the victim provides documentation, OHCD will acknowledge receipt of the documentation within 10 business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearing for the tenants, [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

#### OHCD Policy

If presented with conflicting certification documents from members of the same household, OHCD will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.

When requesting third-party documentations, OHC will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If OHCD does not receive third-party documentation within the required timeframe (and any extensions), OHCD will deny VAWA protection and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, OHCD will hold two separate hearings for the applicants or tenants.

### **Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

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### OHCD Policy

If OHCD accepts an individual's statement or other corroborating evidence as determined by the victim of domestic violence, dating violence, sexual assault, or stalking, OHCD will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation [24 CFR 5.2007(c)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

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### **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

#### OHCD Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, OHCD will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

### **16-IX.F. ELECTRONIC SIGNATURES & SCANNED DOCUMENTS**

Electronic records and signatures carry the same weight and legal effect as traditional paper documents and handwritten signatures. PHA will not deny the legal effect or enforceability of a document solely because it is in electronic form. (Electronic Signatures in Global and National Commerce Act (ESIGN, 2000) and the Uniform Electronic Transactions Act (UETA, 1999).

PHA will accept scanned documents to verify program information. If at any time, PHA has reason to believe that documents have been altered or contain fraudulent information, PHA may request additional documentation to verify program information.

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### EXHIBIT 16-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

#### Prince William County Office of Housing & Community Development<sup>1</sup> Notice of Occupancy Rights under the Violence Against Women Act<sup>2</sup>

##### To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>3</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the **Housing Choice Voucher (HCV)** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

##### Protections for Applicants

If you otherwise qualify for assistance under the **Housing Choice Voucher (HCV)**, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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### **Protections for Tenants**

If you are receiving assistance under **Housing Choice Voucher (HCV)**, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under **Housing Choice Voucher (HCV)** solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

### **Removing the Abuser or Perpetrator from the Household**

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, The PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

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### **Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

**1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

**2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

**3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

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The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

### **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PHA can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.

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- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.



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The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted, and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and
2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

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### Other Laws

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

### For Additional Information

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the P must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **Prince William County Office of Housing & Community Development for information to answer questions on VAWA.**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact ACTS Domestic Violence Hotline (703) 221-4951.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact ACTS Domestic Violence Hotline (703) 221-4951.

Victims of stalking seeking help may contact ACTS Domestic Violence Hotline (703) 221-4951.

**Attachment:** Certification form HUD-5382 **[form approved for this program to be included]**

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### EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

**CERTIFICATION OF U.S. Department of Housing  
DOMESTIC VIOLENCE, and Urban Development  
DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING,  
AND ALTERNATE DOCUMENTATION**

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to

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by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s): _____ _____ _____ _____
--

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

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**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

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### **EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)**

Attachment: Certification form HUD-5382

#### **Prince William County Office of Housing and Community Development**

#### **Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Housing Choice Voucher Program**

##### **Emergency Transfers**

The PHA is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>4</sup> the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>5</sup> The ability of the PHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

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<sup>4</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>5</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and housing choice voucher (HCV) programs** are in compliance with VAWA.

### **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

### **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the PHA's program; OR

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2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the PHA will also



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assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

### **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

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### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE or visit the online hotline at: <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking. ACTS Domestic Violence Hotline (703) 221-4951.

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### EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

#### EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

#### **The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current

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restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

1. **Name of victim requesting an emergency transfer:** \_\_\_\_\_
  
2. **Your name (if different from victim’s)** \_\_\_\_\_
  
3. **Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_  
\_\_\_\_\_
  
4. **Name(s) of other family member(s) who would transfer with the victim:** \_\_\_\_\_  
\_\_\_\_\_
  
5. **Address of location from which the victim seeks to transfer:** \_\_\_\_\_
  
6. **Address or phone number for contacting the victim:** \_\_\_\_\_
  
7. **Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_
  
8. **Relationship of the accused perpetrator to the victim:** \_\_\_\_\_
  
9. **Date(s), Time(s) and location(s) of incident(s):** \_\_\_\_\_  
\_\_\_\_\_
  
10. **Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11.** \_\_\_\_\_
  
11. **Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**  
\_\_\_\_\_  
\_\_\_\_\_

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**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:** \_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

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### EXHIBIT 16-5: MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

*Prince William County Office of Housing and Community Development*

#### **NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

#### **Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through Prince William County Office of Housing and Community Development HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

#### **Denial of Tenancy**

*Protection for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

#### **Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

- a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

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1. The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault or stalking; or
  2. The distribution of possession of property among members of a household in a case.
- b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding to evict. (See 24 CFR 5.2005(d)(2)).
- c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)
- i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consist of physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that he potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)
  - ii. An eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicted on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

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- a. Form HUD-55383 (Self-Certification Form); or
- b. A document:
  - 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
  - 2) Signed by the applicant or tenant; and
  - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant. The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence
- d. The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner. If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual’s failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual’s right to challenge the denial of assistance or termination, nor does it preclude the individual’s ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.



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### **Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

### **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

### **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

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Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk;
- The nature and severity of the potential harm;
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

### **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the
- c. covered program; or
- d. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

### **Service Providers**

Prince William County Office of Housing and Community Development (OHCD) has extensive relationships with local service providers. OHCD staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in OHCD's Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

### **Definitions**

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the

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duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- 1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- 2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

- 1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- 2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - i. The length of the relationship;
  - ii. The type of relationship; and
  - iii. The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for the person's individual safety or the safety of others; or

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2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

## LINKS TO DOMESTIC VIOLENCE RESOURCES

### Domestic Violence Information / Hot Lines

ACTS Domestic Violence Services	703-221-4460 703-221-4951 - Hot Line Prince William Area: 703-368-4141
<b><u><a href="#">Alexandria Office on Women - Domestic Violence Program</a></u></b>	703-838-4911 703-968-4052
ADAPT: Anger and Domestic Abuse Prevention and Treatment	703-471-6096 - 24-hour hot line 703-968-4050 - TTY
Artemis Group	703-228-4848 - 24-hour hot line 703-228-1550 - Main number
CrisisLink (Formerly Northern Virginia Hot Line)	703-527-4077- 24-hour hot line
Fairfax County Victim Assistance Network	703-360-7273
<b><u><a href="#">National Center for Victims of Crime</a></u></b>	202-467-8700 - Washington, D.C.
A resource and advocacy organization for crime victims.	
<b><u><a href="#">National Domestic Violence Hotline</a></u></b>	800-799-SAFE (7233) 800-787-3224 - TTY
Office for Women and Domestic Violence	703-360-7273 - 24 hour hot line 703-799-8253 - TTY
Virginia Crime Victim Assistance	888-887-3418 - INFOLINE
Virginia Family Violence & Sexual Assault Hot Line	800-838-8238
<b><u><a href="#">Virginia Sexual and Domestic Violence Action Alliance</a></u></b>	
Virginia Statewide Hot Line	800-838-VADV (8238)
The Women's Center - Domestic Violence Services	703-281-2657 - Vienna, VA

### Sexual Assault Hot Lines

Alexandria SARA	703-683-7273
Artemis Group	(9 a.m. - 5 p.m.) 703-228-1550
Artemis Group	(5 p.m. - 9 a.m.) 703-228-4848
DC Rape Crisis Center	202-333-7273 - Washington, D.C.
Fairfax/Falls Church Victim Assistance	703-360-7273

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Prince William, ACTS Sexual Assault Services Hot Line 703-368-4141  
Virginia Family Violence & Sexual Assault Hot Line 800-838-8238

### Shelters

ACTS Domestic Services - Prince William 703-221-4951  
Alexandria Women's Shelter 703-838-4911  
Arlington Doorways for Women & Families (formerly TACTS) Safe House 703-237-0881  
[www.DoorwaysVa.org](http://www.DoorwaysVa.org)  
Bethany House 703-658-9500  
Fairfax County Women's Shelter 703-435-4940  
Loudoun Abused Women's Shelter & Legal Svcs. (LAWS) 703-777-6552  
My Sister's Place, DC 202-529-5991  
Shelter House 703-536-2155  
Women's Shelter 703-435-4940 - 24 hours  
703-435-4940 - TTY

### Legal Resources

Main: 703-534-4343  
Alexandria: 703- 684-5566  
Arlington: 202-532-3733  
Fairfax: 703-540-9441  
Leesburg: 571-482-2688  
Manassas: 571-482-2680

### [Legal Services of Northern Virginia](#)

Fredericksburg: 540-374-9101  
Richmond Highway: 571-482-2694

### [Women's Law Virginia Resources](#)

### Spanish Resources

#### [Ayuda](#)

Linea de Ayuda  
Prince William ACTS 703-368-6544  
M-F: 6 - 10 p.m.

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# PRINCE WILLIAM COUNTY OFFICE OF HOUSING & COMMUNITY DEVELOPMENT

### Code of Conduct for Office of Housing and Community Development

Each employee, regardless of grade or length of County service is responsible for promoting an image of professionalism at all times and as such is expected to adhere to the following Standards of Conduct. Violation of the Standards of Conduct is grounds for disciplinary action up to and including termination:

- Comply with a proper order of an authorized supervisor;
- Treat individuals, including subordinates, fellow employees and management alike, and those whom they serve, with respect, courtesy and tact regardless of age, race, color, religion, sex, national origin, marital status, disability, or sexual orientation;
- Dress in appropriate attire, uniform or safety equipment as specified by the standards and work rules for the agency and position;
- Maintain confidentiality with regard to client or customer information in accordance with state and federal law, County ordinance and policy;
- Promote safe operations and comply with all appropriate safety and health regulations;
- Promptly report safety and health hazards so that they can be corrected before injuries result;
- Render full and efficient service and provide the highest level of customer service possible **to include returning customer phone calls and emails within one business day (24 hours)** and;
- Comply with rules and regulations governing hours of work, absences, use of leave.

The following conduct is prohibited. Employees who engage in any of the following are subject to disciplinary action, up to and including termination:

- Dispensing special favors or privileges or making private promises to anyone or accepting favors which might be construed as influencing the performance of County duties;
- Using information received confidentially in the performance of County duties as a means of making private profit;
- Engaging in criminal, dishonest, immoral or disgraceful conduct prejudicial to the County; or conviction of a crime which reflects negatively on the County;
- Soliciting or accepting anything of value in return for performing or refraining from performing an official act;
- Using County facilities, equipment, property or manpower for other than officially approved activities, such as excessive use of a telephone for personal reasons during business hours or charging long distance telephone calls to the County;
- Carelessly or willfully causing destruction of County property;
- Manufacturing, distributing, possessing, using or being under the influence of alcohol or illegal drugs while at work or on County premises, or while driving a vehicle on County business;
- Threatening or assaulting a fellow employee or the public;
- Falsifying any County record or report, (e.g., employment application, time and attendance

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- reports or workers' compensation claims);
- Participating in mischievous actions such as horseplay, disorderly conduct or similar undesirable conduct;
- Using obscene language toward fellow employees, supervisors, subordinates and/or members of the public;
- Arriving late for work consistently;
- Engaging in outside employment without approval of the appointing authority;
- Abusing supervisor authority, such as gross favoritism, harassment or mistreatment of employees;
- Using racial, sexist or ethnic slurs or other language that denigrates any person on the basis of race, color, religion, national origin, sex, elderliness, familial status, disability, source of funds, **sexual orientation, gender identity, or military status**;
- Sexually harassing fellow employees, supervisors or subordinates;
- Bringing a gun, knife or other weapon, either concealed or displayed, to work or onto County premises, unless specifically authorized by appointing authority to do so;
- Knowingly operating a vehicle on County business with a revoked or suspended operator's permit;
- Engaging in rude or unprofessional behavior or disorderly conduct, even if the behavior is not expressly forbidden by regulation or law; and
- Violating any County policy or regulation not specifically set forth in this document.

Any person in the merit service of Prince William County, Virginia, should:

- PUT loyalty to the highest moral principles to country, the Commonwealth of Virginia and Prince William County above loyalty to persons, party or County government.
- UPHOLD the Constitution, laws and legal regulations of the United States, the Commonwealth of Virginia and Prince William County and never be a party to their evasion.
- GIVE a full day's labor for a full day's pay; giving to the performance of work duties his/her earnest effort and best thought.
- NEVER discriminate by the dispensing of special favors or privileges to anyone, whether for remuneration or not, and never accept, for the employee or his/her family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his/her official duties.
- MAKE no private promises of any kind binding upon the duties of office since an employee or official of Prince William County has no private word which can be binding on public duty.
- ENGAGE in no business with the County government, either directly or indirectly, which is prohibited by law, or which is inconsistent with the conscientious performance of official duties.
- NEVER use for private gain or disclose to unauthorized persons any information coming to him/her confidentially in the performance of official duties.
- EXPOSE corruption wherever discovered.



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UPHOLD these principles, ever conscious that public office is a public trust.

The purpose of the Housing Choice Voucher (HCV) Program Privacy Policy is to establish the guidelines and protocols for complying with the U.S. Department of Housing and Community Development (HUD) federal privacy requirements for Personally Identifiable Information (PII). Prince William County Office of Housing & Community Development (OHCD), Housing Program Analysts and other staff members as applicable will comply with the PII requirements for all Housing Choice Voucher Applicants and/or Participants as outlined below:

- All PII information on Applicants and/or Participants will be stored on secured network and secure internal systems
- All paper case files and any thumb drives, external hard drives containing any PII information will be locked up either in individual office desks or in locked and secured filing cabinets located in the file storage room(s)
- No case files are to be left on desks, credenzas, printers or any other work area that is not locked
- OHCD staff will encrypt emails which contain PII information and will only discuss PII with other work staff as necessary for determining program eligibility
- OHCD staff will not distribute or release sensitive PII information over the phone, or leave messages containing sensitive PII information on voicemail
- OHCD staff will not collect or maintain any applicant's sensitive information without proper authorization and consent from the Applicant
- Social Security Numbers (SSN) and other sensitive PII information for Applicants is required for determining eligibility for assistance through the HCV Program, however when providing requested information which would include the SSN, OHCD will redact this information on all applicant's documentation as applicable
- All personal passwords or other login credentials should not be stored within any visible work location or left unattended where available to those who are not authorized to have access
- When sending PII by inter office courier make sure the envelope is tightly sealed and should have the recipient's name and the words "confidential" on the outside of the envelope
- OHCD will follow the Commonwealth of Virginia – The Library of Virginia, records retention and disposition schedule general schedule No. 32- Redevelopment and Housing Authority Records with all confidential or privacy protected records will be destroyed by shredding or pulping, ensuring that there is no violation of the Freedom of Information Act (FOIA)
- Prince William County permanently erases all electronic records as required
- Upon any incident of PII information being viewed, leaked in correspondence or other methods, the incident is to be reported immediately to the Supervisor, Assistant Director and Director of Housing

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### **Conflict of Interest:**

No person who is an employee, agent, consultant, officer, or elected or appointed official of Prince William County, Manassas City or Manassas Park who exercises or has exercised any function or responsibilities with respect to assisted rehabilitation activities of the Housing Choice Voucher Program who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds hereunder, either for themselves, their immediate family, or with who they have business ties, during their tenure or for one (1) year thereafter.

### **Employee Conflict of Interest:**

OHCD will always strive to maintain the highest ethical standards in all policies, procedures and programs and will take every reasonable action to avoid any conflicts of interest when administering all programs. The Housing Choice Voucher Program will be administered without preference or favoritism on the part of any of OHCD Program employees. Each employee must comply with all of the policies and procedures of the HCV Program, maintain the confidentiality of information required in the performance of his or her duties as it relates to administration of the program and not use his or her position or knowledge acquired in carrying out job responsibilities and duties for personal gain or as a representative of other interests, public or private.

It is not possible to develop a detailed set of rules that cover all circumstances. There is no substitute for good judgment. The following considerations will, however, serve as a guide to the types of activity by an OHCD HCV employee administering a federally funded program that might constitute a possible conflict of interest when dealing with family and administration of the policies and procedures set forth for the HCV Program.

**Covered Individuals** For the purposes under this Policy, “family or family member” is defined as any member of the employee’s family (spouse, parent, sibling, child, stepchild, grandparent, grandchild, great-grandchild, in-law, or domestic partner).

**Covered Transactions** This Policy covers any transactions that could constitute a conflict of interest or a duality of interest, both of which are described below.

**Actions Considered a Conflict of Interest** In general terms, a conflict of interest may occur if an employee’s “family or family member” as defined above applies for assistance through the HCV Program and the employee(s) administering the HCV Program: (i) influences, appears to influence or has the potential to influence; or provides any assistance in the processing of any documentations used to make an eligibility determination to include income; property; legal documentation and release of federal funding.

All HCV Applications received from an employee’s “family or family member” as defined above must be administered by alternative OHCD HCV employee and the employee whose “family or family member” that has applied for assistance through the HCV program will not be involved in the administration; have direct access to; or funding of the application for assistance.

In addition, an employee is considered to have a potential conflict of interest when:

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An employee or his or her family member has a financial interest (examples may include employment through a representative or agent for any office in or deriving any income from any entity doing or seeking to do business; to include but not limited to affiliates in the real estate market) i.e., Realtors; Management Companies, and/or Landlords that conflicts with the interest of OHCD or potential HCV Applicants in any manner.

Program staff employees are required to comply with all of the conflict-of-interest requirements outlined within the Prince William County Employee Personnel Policy in addition to this Program Conflict of Interest Policy.

In addition, any OHCD employee may not have any direct or indirect interest in the Housing Assistance Payment (HAP) contract or in any benefits or payments under the contract (including the interest of an immediate family member of staff) while that person is an employee in the Office of Housing and Community Development or for one year thereafter. “Immediate family member” means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister or brother (including a stepsister or stepbrother) of a Section 8 staff member.

Staff will comply with the conflict-of-interest requirements of the Housing Choice Voucher Program at 24 CFR 983.161.

Disciplinary action for infractions of this Code of Conduct for Subsidized Housing Programs Administered by Prince William County Department of Housing and Community Development will be in accordance with Chapter 8 of the Prince William County County Personnel Policy governing Conduct and Discipline. Disciplinary actions may include oral reprimands and warnings, written reprimands, suspension without pay, disciplinary demotion and dismissal from employment.

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*Signature & Date*

**GLOSSARY**

**A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

<b>AAF</b>	Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)
<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>AIDS</b>	Acquired immune deficiency syndrome
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>EID</b>	Earned income disallowance
<b>EIV</b>	Enterprise Income Verification
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration (HUD Office of Housing)
<b>FHEO</b>	Fair Housing and Equal Opportunity (HUD Office of)
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HA</b>	Housing authority or housing agency
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HQS</b>	Housing quality standards
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System

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<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual retirement account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	<b>Income Validation Tool</b>
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English proficiency
<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
<b>MTW</b>	Moving to Work
<b>NOFA</b>	Notice of funding availability
<b>OGC</b>	HUD's Office of General Counsel
<b>OIG</b>	HUD's Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan to Achieve Self-Support
<b>PHA</b>	Public housing agency
<b>PIC</b>	PIH Information Center
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PPI</b>	<b>Program Privacy Policy</b>
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SWICA</b>	State wage information collection agency

## Chapter 17

<b>TANF</b>	Temporary assistance for needy families
<b>TPV</b>	Tenant protection vouchers
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront income verification
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Reauthorization Act of 2013

**B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

***Absorption.*** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

***Accessible.*** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

***Adjusted income.*** Annual income, less allowable HUD deductions and allowances.

***Administrative fee.*** Fee paid by HUD to the PHA for administration of the program. See §982.152.

***Administrative plan.*** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

***Admission.*** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

***Affiliated individual.*** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

***Amortization payment.*** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

***Annual.*** Happening once a year.

***Annual contributions contract (ACC).*** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

***Annual income.*** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

***Area exception rent.*** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See *net family assets.*)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

***Biennial.*** Happening every two years.

## Chapter 17

***Bifurcate.*** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Budget authority.*** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

***Child.*** A member of the family other than the family head or spouse who is under 18 years of age.

***Childcare expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further **their** education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

***Citizen.*** A citizen or national of the United States.

***Cohead.*** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

***Common space.*** In shared housing, the space available for use by the assisted family and other occupants of the unit.

***Computer match.*** The automated comparison of databases containing records about individuals.

***Confirmatory review.*** An on-site review performed by HUD to verify the management performance of a PHA.

***Consent form.*** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

***Congregate housing.*** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

***Contiguous MSA.*** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

***Continuously assisted.*** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

***Contract authority.*** The maximum annual payment by HUD to a PHA for a funding increment.



## Chapter 17

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See *person with disabilities*.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

## Chapter 17

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

## Chapter 17

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the federal government.

**Foster childcare payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gender identity.** Actual or perceived gender-related characteristics.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

## Chapter 17

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** See *public housing agency*.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for eligibility.** Annual income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

## Chapter 17

**Individual with handicaps.** See *person with disabilities*.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or **their** representative, or the managing agent or **their** representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Living/sleeping room.** A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

## Chapter 17

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of *cooperative*.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

## Chapter 17

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Overcrowded.** A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with disabilities.** *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Private space.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

## Chapter 17

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified family** (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.



**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Sexual assault.** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual orientation.** Homosexuality, heterosexuality or bisexuality.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

**Single person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Small rural public housing agency (PHA).** Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

**Stalking.** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

## Chapter 17

**Suspension.** The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

**Tax credit rent.** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See *family rent to owner*.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

***Violence Against Women Reauthorization Act (VAWA) of 2013.*** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

***Violent criminal activity.*** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

***Voucher (housing choice voucher).*** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

***Voucher holder.*** A family holding a voucher with an unexpired term (search time).

***Voucher program.*** The housing choice voucher program.

***Waiting list.*** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

***Waiting list admission.*** An admission from the PHA waiting list.

***Welfare assistance.*** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments **designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.**

## Chapter 17

**FAMILY SELF-SUFFICIENCY PROGRAM (FSS)**  
**(See Family Self-Sufficient Action Plan) and**  
**EMERGENCY HOUSING ASSISTANCE PROGRAM**

**18-A. PROGRAM OBJECTIVES [24CFR 984.102]**

The objective of the FSS program is to reduce the dependency of low-income families on public or welfare assistance and **Housing Choice Voucher Participant (formally referred to as Section 8)**, low-income public housing, or any Federal, State, or local rent or homeownership subsidies. Under the FSS program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and social skills necessary to achieve self-sufficiency, as defined in § 984.103 of this subpart A. HUD measures the success of a PHA's FSS program not only by the number of families who achieve self-sufficiency, but also by "the number of FSS families who, as a result of participation in the program, have family members who obtain their first job, or who obtain higher paying jobs; no longer need benefits received under one or more welfare programs; obtain a high school diploma or higher education degree; or accomplish similar goals that will assist the family in obtaining economic independence."

The Office of Housing and Community Development (OHCD) implemented its Family Self Sufficiency (FSS) Program for Housing Choice Voucher Participants for both the County and Manassas City in 1992 with the first families enrolled in 1993. June 2001 the City of Manassas/Manassas Park FSS Plan became independent of Prince William County. Each jurisdiction continues separate Action Plans. OHCD works with social service agencies, schools, businesses, and other local partners to help FSS Participants access services including but not limited to:

- childcare
- transportation
- education and training
- employment
- home-ownership counseling

## **18-B. ELIGIBILITY AND RECRUITMENT**

The FSS Program is open for all HCV participants. OHCD periodically surveys all HCV participants to determine their interest in the program. The FSS Coordinator for FSS discusses the FSS Program opportunity when applicants and participants attending their initial and transfer voucher briefings. The HCV Housing Program **Analyst** discusses the FSS opportunity with participants during their annual Recertification appointments. Applicants and participants who are interested in the program are invited to schedule an appointment to meet with the FSS Coordinator to make application for the FSS Program.

### **18-C. NEEDS ASSESSMENT, INDIVIDUAL TRAINING, SERVICES PLAN AND FSS CONTRACT**

The PHA employs a FSS Coordinator for FSS, whose primary responsibility is to work with FSS Families. The FSS Coordinator completes a needs assessment of every participating FSS individual, to determine the services needed for the individual to achieve the goal of self-sufficiency. The FSS Coordinator uses the needs assessment to develop an Individual Training and Services Plan (hereafter called a Service Plan) for the family. The Service Plan identifies the family's "ultimate goal", along with interim goals to meet the "ultimate" goal; outlines the activities the family needs to undertake to meet the interim goals; identifies the services the family may require assistance in completing the activities, and estimates time frames for completing activities, interim goals, and achievement of the family's "ultimate" goal. Upon completion of Service Plan, the FSS Coordinator will prepare the family's FSS Contract of Participation. The FSS Contract includes the effective date, term, responsibilities of the Family and of the PHA and provisions for establishing an escrow account. After the FSS Coordinator meets with the family and explains the Service Plan and FSS Contract, the family commits by signing the plan and the contract. The term of the FSS Contract is for five years and may be extended for up to two years.



#### **18-D. MONITORING AND CASE MANAGEMENT**

The FSS Coordinator monitors the Service Plan during the term of the FSS Contract and provides case management and program services to the family. The FSS Coordinator links the FSS Participant Family with services and provides support to help the Family achieve its goals. Individual appointments are scheduled as necessary and the FSS Coordinator is also available by telephone for crisis intervention to help the Family achieve the goals set forth in the FSS Contract. FSS Participants are required to keep at least 2 appointments per year, although many Participants will meet with their FSS Coordinator on a much more frequent basis. Workshops are held for FSS Participants throughout the year and include topics such as budgeting, credit repair, employment search, educational opportunities, owner and neighbor relations, and homeownership.

## 18-E. ESCROW ACCOUNT

The FSS Program requires the PHA to establish and maintain an interest bearing FSS escrow account for each participating family. An escrow credit, based on increases in earned income of the family, is credited to this account by the PHA during the term of the FSS contract. Escrow deposits are made by the PHA on the assumption of rent paid by the tenant. If a participating family does not pay their rent to their landlord, the escrow funds may be forfeited because failure to comply with the lease is a family obligation under the FSS program. Nonpayment of rent is grounds for terminating a family's FSS participation and subsidy and forfeiture of the escrow. The FSS Coordinator will provide each FSS Participant Family with an annual accounting of the status of their escrow funds at the end of each fiscal year.

Prince William County Finance will not allow OHCD to establish and maintain separate interest-bearing accounts for FSS participants. Therefore, OHCD will use the HUD established minimum interest to credit each participant escrow account.

The PHA may make a portion of this escrow account available to the family during the term of the contract to enable the family to complete an interim goal, such as education. These amounts must be approved in advance by Supervisor and Director. If the PHA terminates the FSS contract, or if the family fails to complete the contract before its expiration, the family's FSS escrow funds are forfeited. If an FSS participant is terminated from the HCV Program at any point during the term of the FSS contract, or if the participant family is still receiving 'cash assistance' (welfare benefits) at the end of the term of the Contract of Participation, the family's accumulated escrow account will be returned to OHCD. (Welfare benefits, for purposes of the FSS program only, means income assistance from Federal or State welfare programs. Welfare assistance does NOT include Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), child support, Food Stamps and emergency rental and utilities assistance, or other payments from Social Security (24 CFR Ch. IX §984.105).)

There will be no escrow credits during anytime an HCV family is in the process of moving to a new unit and is not under lease.

All forfeited escrows will no longer go to the PHA/HAP fund but will now be deposited into a separate depository account which may be part of the PHA's overall accounts or a separate account to be used for the benefit of FSS families. These forfeited funds may be used for the following eligible activities:

- (i) To support FSS participants who are in good standing, including but not limited to transportation, childcare, training, testing fees, employment preparation costs, and other costs related to achieving obligations as may be outlined in the Contract of Participation; or
- (ii) Training for FSS Coordinators, or
- (iii) Other eligible activities as determined by HUD

(iv) These funds may not be used for salary and fringe benefits of any FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or any other activity determined ineligible by HUD

### ***Interim Disbursements***

The early use of funds may be requested to assist the family in complying with the FSS Contract and becoming Self Sufficient (e.g., pay school cost). Escrow funds may not be used prior to the completion of the contract to pay money owner to OHCD or the landlord. However, upon completion of the Contract, OHCD may withhold from the final escrow disbursement any amounts owed to OHCD.

None-allowable use of escrow funds are:

- Past due rent to current landlord;
- Current or past due utilities accrued while a participant in the HCV program; or
- Security deposit

### ***Number of Interim Disbursements***

Eligible categories for interim disbursements are discussed in detail in the following section. Only ONE interim disbursement from any eligible category will be approved during the family's participation in the Family Self Sufficiency program for a maximum of one interim disbursement per calendar year.

### ***Processing Timeframe and Procedures***

Processing timeframes for all escrow disbursements will be 30 days or less. The processing timeframe starts once the request is provided to the FSS Coordinator. Interim disbursement request is evaluated by the FSS Coordinator for validity and applicability to the completion of a specific goal in the Contract of Participation. At the time of the submitted request, documentation must be submitted by the family to substantiate the request. The FSS Coordinator must review the client's progress under the Contract of Participation to determine if the family meets the requirements to be able to submit a request. Once an escrow request is approved by the FSS Coordinator it also must also be approved by the Supervisor and Director.

### ***Threshold Requirements to be Met Before a Request Can be Submitted***

- At the time of the family's request, the family must have escrowed a full 12-months. This 12-month period can be consecutive or cumulative.
- At the time of the family's request, the family must have strictly adhered to the program's requirements for the past 12-months unless exceptions have been made due to truly extenuating circumstances. If a family exercises portability into Prince William County jurisdiction and request a disbursement in less than 12-months of participation in Prince William County program, then the family must have adhered to program requirements for a total of 12-months in the originating jurisdiction or

combined with the time contiguous to time in Prince William County before receiving an interim disbursement of funds.

- All requests must have the signature of all adult members of the household since every adult member's earned income is considered for eligibility and rent and therefore escrow determination.
- All requests must be linked to a specific goal or activity on the Contract of Participation and justification must be presented to show how the disbursement will help complete the goal or activity.
- At the time of the family's request, all activities must have been completed in the Contract of Participation, and all interim goals met on schedule according to the Contract. Those completed activities and completed interim goals must be identified as part of the escrow request. If there is any activity or interim goal that has not been completed within the scheduled timeframe on the Contract of Participation, the Contract must be amended before the request is submitted to OHCD.
- The amount requested cannot exceed 25% of the account balance at the time of the request.

## ***Eligible Categories for Interim Disbursements***

**Medical** – Interim disbursements can be used for current medical expenses (anticipated or actual). However, medical expenses that are requested to be paid with escrow funds cannot be medical expenses that have been deducted as an allowance from income for the purpose of rent calculation. To be considered a medical request, it cannot have become a collection issue.

*Valid and Required Documentation:* Statement from family requesting disbursement, amount and which goal will be accomplished with the request; a statement attesting that no existing insurance can cover the expense and that the family is not receiving a deduction for same medical expensed from housing and state/bill from medical provider.

**Credit** – Disbursement can be used to clear up derogatory credit issues which affect the family's credit score, and therefore the ability to achieve homeownership or obtain transportation at reasonable interest rates. At the time of the request, family must be active and compliant in debt reduction plan.

*Valid and Required Documentation:* Statement from family requesting disbursement, amount which goal will be accomplished with the request; and proof of enrollment and status in debt reduction plan.

**Education** – Interim disbursements can be used to pay for educational expenses for goals that are outlined in the Contract of Participation. Education expenses that are requested to be paid from escrow funds cannot be expenses that are eligible for tax deduction or have been covered by any financial assistance received or anticipated. This includes employer reimbursement expenses.

*Valid and Required Documentation:* Statement from family requesting disbursement, amount, which goal will be accomplished with the request and certification that the educational expenses for which the escrow funds have been requested will not be paid by another party; and verifiable proof of enrollment or completion.

**Transportation** – Disbursement can be used for car purchase, down payment or repairs to cars or other transportation expenses, such as Omnilink or VRE faire, only if it is not being reimbursed by the employer or another social services entity.

*Valid and Required Documentation:* Statement from family requesting disbursement outlining need and which goal(s) will be accomplished with the request. Proof of anticipated purchase or estimate from mechanic on legitimate stationary/form; proof of ownership for the car for which repair request are submitted; and statement attesting that stated repairs will only be paid by escrow funds instead of insurance claim, etc., and if other sources pay for those same repairs in the immediate future, that escrow funds will be repaid within 30 days.

**Homeownership** – Disbursement can be used for earnest money, closing costs or other expenses used in preparation for homeownership.

*Valid and Required Documentation:* A valid sales contract, and prequalification letter from a lender or supporting documentation from an OHCD First-Time Homebuyer representative. If the funds are granted, but the purchase does not go through to settlement and the family decided to continue to rent; then all funds granted toward purchase must be repaid to OHCD within 30 days.

**Entrepreneurship** – Interim disbursements can be used for the start-up or expansion of a business.

*Valid and Required Documentation:* Family must present a statement requesting the funds and which goal(s) the funds will help complete, a business plan reviewed by a counselor (Small Business Administration [SBA] or Service Corps of Retired Executives [SCORE]). In addition, the family must provide proof that they have attended a relevant business class or seminar within the past 6-months.

***Actions Following Disbursement***

Upon disbursement, each receipt must follow up with the FSS Coordinator and provide proof that the funds were used for the approved circumstance(s) within 10-business days.

***Compliance Issues***

If any family does not provide receipt within 10-business days to prove the disbursement was applied properly, the family must repay those funds within 60-days. Failure to provide receipts to prove the full disbursement was applied properly constitutes fraud and will be grounds for termination of participation in the FSS program and the HCV program. Termination proceedings will only be suspended if the family signs an acknowledgement of this debt for the amount that was spent properly and a repayment agreement to be repaid within 60-days of the disbursement. In addition, the family will not be allowed to request any additional interim disbursements during the Contract of Participation.

## **18-F. FSS AND PORTABILITY**

An FSS Family that chooses to move outside of Prince William County must meet with the FSS Coordinator to determine the best course for their FSS participation. The following options may be available:

1. The family continues in OHCD's FSS Program if they are able to maintain services and activities outlined in the Service Plan.
2. The family may enter the FSS Program of the Receiving Housing Authority if this option is available. The family must demonstrate that they will be able to complete the FSS Plan in the new area. The family would enter into an FSS Contract with the Receiving Housing Authority for the term remaining on the family's contract with the OHCD. The OHCD will then terminate its contract with the family. If the receiving housing authority does not have a FSS Program, or has no opening within its FSS Program, or the family decides not to continue in the FSS Program, OHCD will terminate its FSS Contract with the family and any escrow funds will revert back to OHCD.

## **18-G. FSS CONTRACT COMPLIANCE**

The Service Plan will be monitored by the FSS Coordinator. A Family Self Sufficiency Participant is required to meet with the Community Services FSS Coordinator at least twice a year to determine if the family is complying with their plan. A FSS Participant who has not kept an appointment with the FSS Coordinator for one (1) year will be placed on probation. A FSS Participant who does not keep appointments for two (2) years will be terminated from the FSS Program. An FSS Participant must comply with the terms of the Lease, including payment of their rent share to the landlord. If the FSS Coordinator determines that the family is not keeping appointments, is failing to actively participate in activities according to the time frames specified in their contract or if the family is in violation of any provision of their Contract of Participation, a conference will be scheduled to discuss the violation(s). At the conference, the FSS Coordinator will attempt to resolve the matter by obtaining an understanding of why the participant family is not in compliance and determine if adjustments to goals, services, and/or the timetables are necessary and/or appropriate in an effort to help the participant family complete their FSS Contract. The participant family will be advised that the FSS Contract can be terminated, and any escrow funds will be forfeited upon further violations of the FSS Contract. If the FSS Coordinator is unable to reach a satisfactory resolution with the family, additional administrative action may be necessary. If additional violations of the FSS Contract occur, or the conference does not successfully resolve the matter, the FSS Coordinator will propose termination of the FSS Contract. A letter proposing termination will be sent to the family by certified mail. The letter will state the reason(s) for the proposed termination and inform the participant that they have the right to request a conference if there is disagreement regarding the termination. The participant will be advised to put the request for a conference into writing within ten (10) days to the Community Services FSS Coordinator.

At the conference, the participant may offer reasons to not terminate the FSS Contract. The FSS Coordinator will discuss these reasons with his or her supervisor and provide recommendation to the supervisor. After the review with the supervisor, the participant family will be notified in writing within ten (10) business days of the decision to terminate the FSS Contract or to further modify the plan. If the decision is to terminate, the participant family will receive a 30-day notice of this action and will forfeit all funds in its escrow account. The OHCD will not terminate HCV assistance because of the participant family's failure to meet FSS responsibilities. Section 8 Assistance will be terminated only as provided by HUD and the OHCD in the manner applied to all Section 8 subsidy holders.



## 18-H. FSS CONTRACT COMPLETION & EXTENSIONS

Completion of the FSS Contract occurs when:

For the purpose of the FSS Program Welfare Assistance means:

Income Assistance from Federal (i.e., Temporary Assistance for Needy Families (TANF) or subsequent programs), State or local welfare programs and includes only cash maintenance payments designed to meet a family's goal ongoing basic needs. Welfare Assistance does not include:

- Child only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not on the need of the child's current non-parental caretaker.

The family has become independent of regular cash Welfare assistance before the expiration of the term of the Contract of Participation including any extension thereof AND meets one of the following conditions:

1. Fulfill all responsibilities under the contract on or before the expiration of the Contract of Participation and any extension; or
2. As defined in the FSS regulations (24 CFR 984.303(4)(iii)), a determination of what constitutes "suitable employment" for each family member with a goal of seeking and maintaining it, will be made by the Office of Housing and Community Development, with the agreement of the affected participant, based on the skills, education, job training and receipt of other benefits of the family member and based on the available job training opportunities within the community.
3. Each FSS family will be required to fulfill the identified obligations as stipulated within the Contract of Participation of which the participating family has committed itself based upon the requirements under the Contract of Participation no later than 5-years after the first re-examination

**Seek Employment** – Job ready participants must make a minimum number of job contacts per week as outline in their Contract of Participation. Job contacts need to be made in person and documented by the participant by completing a job lead sheet, which will be submitted to the FSS Coordinator. For some employment objectives, it would be acceptable for the participant to submit resumes to prospective employers and submit copies of the cover letter, confirmation letters for the receipt of resumes for particular positions or in other cases a list of employers to the FSS Coordinator as documentation of job search efforts.

**Maintain Employment** – Participants who became employed will be required to maintain employment. If conditions arise in which a participant thinks it is necessary to resign from employment, the participant is required to consult with the FSS Coordinator prior to resigning unless there are extenuating circumstances. The FSS Coordinator will examine the situation to ensure that all options have been explored which would permit the participant to continue employment, obtain another job with equal or better pay and benefits, or improve career potential.

**Extension** – Contracts of Participation can be extended for a total of two years. Extensions are granted for one-year increments. The conditions that allow an extension to be granted beyond five-years are as follows:

- Documented medical reasons
- Education completion requirements that exceed five-years
- Involuntary loss of employment for reasons beyond the control of the participant
- Additional time to fulfill the interim goal that the family is welfare free before the expiration of the term of the Contract of Participation, including any extensions.

At that time, the amount in the Family's escrow account, less any amount owed to the OHCD, will be paid to the Head of the Household; or the OHCD reserves the right to terminate the FSS Contract of Participation before its expiration date under the following circumstances:

- (1) On determination that the Head of Household or participating Family member failed to fulfill the contract or any extensions thereof;
- (2) The Family withdraws from the FSS Program;
- (3) By mutual consent of both parties;
- (4) By operation of law; or
- (5) When the participating Family is no longer receiving Section 8 Assistance, including termination from the Section 8 HCV Program for violation of family obligations.
- (6) The OHCD may declare the Contract null and void if resources and services necessary to complete the contract are not available. If resources and services aren't available, OHCD may release the escrow to the tenant.

## **18-I. PROGRAM STATUS: PROBATION AND TERMINATION**

Program status is the standing that the family has at any given time during participation in the FSS program, relative to full compliance with the rules and regulations of the FSS program and adherence to the Contact of Participation. For compliance to the rules and regulations of both the Housing Choice Voucher Program and the Family Self Sufficiency Program families are reviewed.

**Good Standing** – Families that are in good standing are in compliance with both the Housing Choice Voucher Program (HCV) and Family Self Sufficiency (FSS) Program rules and regulations and are making satisfactory progress in completing their contract.

**Program Non-Compliance** – Families that are non-compliant are either in jeopardy of losing their housing assistance due to violations of the HCV Program or are non-compliant with the rules of the FSS Program. FSS Coordinator review cases on a regular basis to determine compliance. Once the FSS Coordinator reviews the case and finds it non-compliant, he/she makes a concerted effort to assist the family in restoring themselves in good standing. If the family fails to comply, the family will be referred to OHCD for possible termination of participation in the FSS Program and possible termination of participation in HCV Program.

Families referred to OHCD for non-compliance will be assessed for termination based on the nature of the offense; whether or not the family was on probation; and what opportunities the family has been given to comply with the Program.

Once assessed by OHCD, if probation is determined to be the best outcome, the family will be required to sign a Memorandum of Understanding reiterating their need to comply with the rules and regulations of the program; the project time period of the probation, and the potential outcomes of non-compliance with the probation. The family is then referred back to the FSS Coordinator. At the end of the probation period, the FSS Coordinator will submit written certification to Supervisor and Director that the family has been restored to good standing, or to request termination.

Once Supervisor and Director has received a referral for termination, the tenant is issued a notice of termination from the FSS Program. The family is given the opportunity to have a face-to-face review of the circumstances. This review will be conducted by the FSS Review Panel. A three-person subcommittee of the FSS Program Coordinating Committee can act as the FSS Review Panel. The Panel will decide:

1. If the family will be placed on probation; or
2. If there are sufficient grounds for formal termination in the FSS Program.

**Probation** – If the family was formally on probation, there will not be a second probation allowed for the same circumstances. However, if the family has not received probation in the past, and the Review Panel determines that the family will be placed on probation, the Panel and family will review the circumstances and develop a plan to bring the family into compliance with the Contract. Probationary status begins once the Plan has been agreed upon. The participating family is then responsible for resuming contact with the FSS Coordinator within 48 hours. Probation status last for a minimum of three (3) months.

**Termination** – If the family is not referred for probationary status, the case is then referred to the FSS Coordinator for termination. The FSS Coordinator processes the case for termination from the FSS Program and reviews the case for possible termination of HCV assistance.

If the family is referred for probation, and the family fails to comply with that status; the family is not afforded a second Review Panel meeting for the same circumstances. The case is then referred to FSS Coordinator for termination from FSS Program and possibly the HCV Program.

**Voluntary Withdrawal** – If a family wishes to voluntarily withdraw from the program, they must submit a written statement to the FSS Coordinator. The FSS Coordinator will review the case and if circumstances warrant a withdrawal, will provide a summary for processing. If the FSS Coordinator does not feel that the circumstances warrant a withdrawal, be termination instead, the summary will document that finding.

Under certain circumstances, the FSS Coordinator may refer a voluntary withdrawal to the Review Panel for further consideration. If further consideration is not warranted, the FSS Coordinator will process a voluntary withdrawal from the FSS Program.

**Housing Choice Voucher Participant Hearing Procedures** – If a family in the FSS Program fails to comply, without good cause, with the Self Sufficiency Contract of Participation they may be terminated from both the FSS and HCV Program. If grounds are found to process the case for termination of both HCV and FSS assistance, there is the opportunity for the family to appeal the decision through a hearing process called an Informal Hearing.

Cases pending termination will be mailed a formal notice of termination stating the reason for the termination by OHCD. Participants who disagree with the decision and wish to request an Informal Hearing must make a written request for an Informal Hearing within 10-days of the date of the formal notice. Participants that do not request a hearing within 10-days; fail to appear for the Informal Hearing or fail to attempt to reschedule an Informal Hearing prior to the Hearing date, will waive all rights to an Informal Hearing.

At Informal Hearings, a lawyer or other representative may represent participants at their own expense. All parties have the right to discovery, to present evidence and may question any witness(es). The OHCD Hearing Officer will conduct the hearing. Factual determinations relating to the individual circumstances of the participant shall be based on a preponderance of evidence presented at the Hearing. The Hearing Officer shall furnish a copy of the written decision to the participant within 14-days from the date of the Hearing. The proposed action of termination will not transpire until the result of the Hearing are concluded.

## **18-J. READMISSION POLICIES**

Persons who have been terminated from FSS Program will not be permitted to participate in the FSS Program for one year from the date of termination. A new applicant must be completed, and readmission approved. A review process may be inherent in the readmission process to determine if the family has learned from the experience that caused the termination; to review any steps the family has already undertaken and plans to take in the future to ensure their success as a readmitted family. Families can remain on the waiting list for a year before admission.

Families who have voluntarily withdrawn from the FSS Program must reapply to the waiting list and remain on the waiting list for no less than 6-months from the date of withdrawal, or when room becomes available, whichever is longer.

## **18-K. FSS PROGRAM COORDINATING COMMITTEE**

The FSS Coordinating Committee's function is to assist in securing commitments of public and private resources for the operation of the program; assist in developing and modifying the Action Plan; and modifying the Action Plan; and in implementing the Program.

Members of the FSS Coordinating Committee shall consist of the following members, required and voluntary.

### **Required Members**

OHCD Housing Choice Voucher Director (or Supervisor by proxy) OHCD Family Self-Sufficiency Analyst

Family Self-Sufficiency Coordinator

FSS participant, (from an area-wide and/or local resident council in identifying the participant representation from Public Housing Agency

### **Voluntary Members**

FSS Case Managers DSS Representatives

Non-profit Service Providers Private Business Representatives

Public/Private Educational - Training Institutions

Financial Empowerment Organizations



## EMERGENCY HOUSING VOUCHER (EHV) PROGRAM

### INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.



## PART I: FUNDING

### 18-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### Housing Assistance Payments (HAP) Funding

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee. The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

#### Administrative Fee and Funding

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
  - \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
  - This fee may be used for any eligible administrative expenses related to EHVs.
  - The fee may also be used to pay for any eligible activities under EHV service fees (18-I.B).

- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV's:
  - \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
  - Placement fees:
    - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
    - o \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
    - o HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
  - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (18-I.B):
  - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated.

## 18-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

### OHCD Policy

The eligible uses for service fees include:

**Holding fees** are fees an owner request that are rolled into the security deposit after an application is accepted but before a lease is signed. The OHCD will cover all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The OHCD and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

**Security deposit assistance.** The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum-security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The OHCD will pay the security deposit assistance directly to the owner.

Landlords may charge security deposits not to exceed the State standard of no more than two months of contract rent. This charge is the responsibility of the Participant. In the event that the issued Voucher has a provision for the payment of a security deposit for rent, OHCD will issue payment directly to the Landlord. Following termination of the lease, damage to the unit or premises caused by a household member or guest beyond normal wear and tear will result in the use of the security deposit to cover said damages. Any remaining security deposit, whether paid by OHCD or the Participant will be returned to the Participant. "Normal wear and tear" are defined as items which could not be charged against the participant's security deposit under state law or court practice.

**Utility deposit assistance/utility arrears/hookup fees.** The OHCD may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The OHCD will pay the utility deposit assistance directly to the utility company. The OHCD will require the utility supplier or family to return the utility deposit assistance to the OHCD at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant -supplied utilities. The OHCD may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit

assistance returned to the OHCD will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD. Any services fee assistance that is returned to the OHCD after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

## **PART II: PARTNERING AGENCIES**

### **18-II.A. CONTINUUM OF CARE (CoC)**

PHAs that accept an allocation of EHV's are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

#### OHCD Policy

The OHCD has entered into an MOU with *[Prince William Area Continuum of Care (CoC)]*.

### **18-II.B. OTHER PARTNERING ORGANIZATIONS**

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

#### OHCD Policy

The OHCD has not entered into a MOU with any other partnering organization.

### **18-II.C. REFERRALS**

#### CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV's. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

### OHCA Policy

The CoC must establish and implement a system to identify EHV eligible individuals and families within the agency's caseload and make referrals to the OHCD. The CoC must certify that the EHV applicants they refer to the OHCD meet at least one of the four (4) EHV eligibility criteria. The OHCD will maintain a copy of the referral and/or certification form from the CoC in the participant's file along with other eligibility paperwork. Homeless service providers are required to use the certification form found in Exhibit 18-2 of this chapter or other form approved by OHCD. Victim services providers may, but are not required to, use the certification form found in Exhibit 18-3 of this chapter when identifying eligible families who qualify as victims of human trafficking. As part of the MOU, the OHCD and CoC will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner. The OHCD liaison responsible for acceptance of referrals will contact the CoC liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC receives this notification, the CoC will provide the OHCD with a completed package of the referred individual or family to include the necessary EHV application, required documentation (residency, SS cards, income, etc.) a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

### **Offers of Assistance with CoC Referral**

The OHCD may make an EHV available without a referral from the CoC in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16.

The OHCD must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the OHCD; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the OHCD is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC (or the OHCD and CoC cannot identify any such alternative referral partner agencies), HUD may permit the OHCD on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

## **PART III: WAITING LIST MANAGEMENT**

### **18-III. A. HCV WAITING LIST**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV's by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

#### OHCD Policy

Will post information about the EHV program for families on the PHA's HCV waiting list on our website. The notice will:

- Describe the eligible populations to which EHV's are limited

- Clearly state that the availability of these EHV's is managed through a direct referral process

- Advise the family to contact the CoC if the family believes they may be eligible for EHV assistance

The OHCD will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The OHCD will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

### **18-III.B. EHV WAITING LIST**

The HCV regulations requiring the OHCD to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC exceeds the EHV's available, the OHCD must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The OHCD will work directly with its CoC to manage the number of referrals and the size of the EHV waiting list.

### **18-III.C. PREFERENCES**

#### **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV, they do not apply to EHV. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV in accordance with Notice PIH 2021-15.

##### OHCD Policy

The OHCD does offer a homeless and/or a VAWA preference for the HCV **waiting list.**

#### **EHV Waiting List Preferences**

With the exception of a residency preference, the PHA may choose, in coordination with the CoC to establish separate local preferences for EHV. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

##### OHCD Policy

Prince William Area CoC has chosen to use the VI-SPDAT score in combination with the priority population ranking score to determine a priority listing for households to be referred for the Emergency Housing Voucher Program (EHV). The VI-SPDAT (Vulnerability Index - Service Prioritization Decision Assistance Tool) is a survey administered both to individuals and families to determine risk and prioritization when providing assistance to homeless and at-risk of homelessness persons. The following list outlines the total possible VI-SPDAT score:

##### VI-SPDAT (Single)

- 0-4 –low
- 5-9 medium
- 10-17 high

##### VI-SPDAT (Family)

- 0-3 low
- 4-8 medium
- 9-above high

The Prince William Area CoC has established the following priority populations and ranking score for all referrals for EHV as well as Rapid Re-housing programs. Households that fall into the following categories rank highest in priority for this housing strategy.



- Families with children with greatest service need (4pts.).
- Aging households over 62 with medical need or disability (3 pts.)
- Youth- aged 18-24 (2 pts.).
- Households without income (1 pt.).
- Currently Fleeing Domestic Violence (additional 2 pts.)
- Veterans (regardless of discharge status) will be served by veteran specific RRH providers.

The following list outlines the total combined VI-SPDAT and priority population ranking score which will determine placement and household need for the EHV by-names list.

- 1-7- low need
- 8-14 -medium need
- 15-above- high need.

## **PART IV: FAMILY ELIGIBILITY**

### **18-IV.A. OVERVIEW**

The CoC determines whether the individual or family meets any one of the four (4) eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **18-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBILITY**

In order to be eligible for an EHV, an individual or family must meet one of (4) four eligible criteria.

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

## 18-IV.C. PHA SCREENING

### Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

### Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

#### OHCD Policy

While the OHCD will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the OHCD will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

## Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

### OHCD Policy

In consultation with the CoC, the OHCD will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The OHCD will establish the following permissive prohibitions:

- If the OHCD determines that any household member is currently engaged in, or has engaged in within the previous 12 months:
  - Violent criminal activity
  - Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity
- If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.
- If the family engaged in or threatened abusive or violent behavior toward OHCD personnel within the previous 12 months.

The OHCD will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the PHA **will not** deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A PHA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease;

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

## 18-IV.D. INCOME VERIFICATION AT ADMISSION

### Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination. Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

#### PHA Policy

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

#### OHCD Policy

The OHCD will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the OHCD verified. At the time of the family's annual reexamination the OHCD must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3. If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

#### **18-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation. If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

##### OHCD Policy

The OHCD will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC that the family has made a good-faith effort to obtain the documentation.

If the OHCD determines that an ineligible family received assistance, the OHCD will take steps to terminate that family from the program in accordance with policies in Chapter 12.

#### **18-IV.F. AGE AND DISABILITY VERIFICATION**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

##### OHCD Policy

The OHCD will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the OHCD and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the OHCD will verify the information in EIV or through other third-party verification if the information is not available in EIV. The OHCD will note in the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the OHCD determines that an ineligible family received assistance, the OHCD will take steps to terminate that family from the program in accordance with policies in Chapter 12.



## **18-IV.G. INCOME TARGETING**

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

### OHCD Policy

The OHCD will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

## **PART V: HOUSING SEARCH AND LEASING**

### **18-V.A. INITIAL VOUCHER TERM**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

#### OHCD Policy

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

### **18-V.B. HOUSING SEARCH ASSISTANCE**

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and OHCD forms; and
- Help expedite the EHV leasing process for the family

#### OHCD Policy

As identified in the MOU between the OHCD and CoC, the following housing search assistance will be provided to each EHV family:

The OHCD will:

Conduct owner outreach in accordance with policies in Chapter 13

Provide directions to potential units as part of the EHV briefing packet

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date

Assign a dedicated Housing Program Analyst for EHV voucher families

The CoC will:

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods

Provide transportation assistance to potential units

Assist the family with the completion of rental applications and OHCD forms

### **18-V.C. HQS PRE-INSPECTIONS**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

#### OHCD Policy

OHCD will not conduct pre-inspections of available units that EHV families may be interested to rent. OHCD will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required inspections or reinspection's.

### **18-V.D. INITIAL LEASE TERM**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

### **18-V.E. PORTABILITY**

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHV's. Exceptions are addressed below.

#### Nonresident Applicants

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.

#### Billing and Absorption

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV's under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV's under its own ACC:
  - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
  - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

## **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

### OHCD Policy

In addition to following OHCD policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the OHCD will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the OHCD will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

## **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

### OHCD Policy

For EHV families who are exercising portability, when the OHCD contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the OHCD will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

## **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

## **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

## 18-V.F. PAYMENT STANDARDS

### Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

- The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

#### OHCD Policy

OHCD will not establish a higher payment standard amount for EHV. The OHCD will use the same payment standards for HCV and EHV.

### Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

### Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

#### OHCD Policy

The OHCD will not establish an alternative policy for increases in the payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

## **18-V.G. TERMINATION OF VOUCHERS**

After September 30, 2023, a PHA may not reissue EHV's when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV's under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV's that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV's to cease leasing any unleased EHV's if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

## **PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS**

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV's are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV's and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts, or any amounts owed to HUD-by-HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent to the administration of the EHV's in accordance with the HCV program requirements at 24 CFR 982.158.



**Exhibit 18-1: MEMORANDUM OF UNDERSTANDING (MOU)**

*Attachment 2 of Notice PIH 2021-15 - Sample MOU Template*

**Memorandum of Understanding**

***[\*\* This sample document demonstrates the Memorandum of Understanding requirements for the administration Emergency Housing Voucher. Unless otherwise noted, all elements are required. \*\*]***

This Memorandum of Understanding (MOU) has been created and entered into on  
***[\*\* Insert execution date. \*\*]***.

*[PHA Name and Address]*

*[CoC Name and Address]*

- I. Introduction and Goals (the following elements, listed in a. – c., are required elements of the MOU):
- a. PHA and CoC’s commitment to administering the EHV’s in accordance with all program requirements.
  - b. PHA goals and standards of success in administering the program.
  - c. Identification of staff position at the PHA and CoC who will serve as the lead EHV liaisons.  
Lead HCV Liaison:

*[Name and title of PHA staff position]*  
Responsibilities of the PHA EHV liaison ***[\*\*Optional\*\*]***.

*[Name and title of CoC staff position]*  
Responsibilities of the CoC EHV liaison ***[\*\*Optional\*\*]***.

- II. Define the populations eligible for EHV assistance to be referred by CoC.

### III. Services to be provided to eligible EHV families

1. List the services to be provided to assist individuals and families have success in the program and who will provide them.

[\*\*The following services are listed for example purposes. \*\*]

1. Partnering service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.
2. Partnering service providers will support PHAs in ensuring appointment notifications to eligible individuals and families and will assist eligible households in getting to meetings with the PHA.
3. PHAs will establish windows of time for EHV applicants to complete intake interviews for EHV.
4. Partnering service providers will provide housing search assistance for eligible individuals and families.
5. Partnering service providers will provide counseling on compliance with rental lease requirements.
6. Partnering service providers will assess individuals and families who may require referrals for assistance on security deposits, utility hook-up fees, and utility deposits.
7. Partnering service providers will assess and refer individuals and families to benefits and supportive services, where applicable.

### IV. PHA Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the EHV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.
5. Designate a staff to serve as the lead EHV liaison.
6. Comply with the provisions of this MOU.

## V. CoC Roles and Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Designate and maintain a lead EHV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e. self-certifications, birth certificate, social security card, etc.).
4. Attend EHV participant briefings when needed.
5. Assess all households referred for EHV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to EHV families. (While EHV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

## VI. Third Party Entity Roles Responsibilities

[\*\*The following responsibilities are listed for example purposes. \*\*]

1. Describe how the State, local, philanthropic, faith-based organizations, Victim Service Providers or CoC recipients it designates will fulfill each of the following responsibilities:
  - a. Outline resource and/or service being provided in support of the community's EHV Program. Commit a sufficient number of staff and necessary resources to ensure that the application, certification and voucher issuance processes are completed in a timely manner.
  - b. Comply with the provisions of this MOU. VII. Program Evaluation

The PHA, and CoC or designated CoC recipient agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor, including possible random assignment procedures.

[Signed and dated by the official representatives of the PHA, CoC, CoC Contractor organization (if applicable), and third-party entities (if applicable).]

Signed by

---

Executive Director, PHA

---

Date

---

CoC Executive Director

---

Date

**Exhibit 18-2: HOMELESS PROVIDER'S CERTIFICATION**

*Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification*

**Emergency Housing Voucher (EHV)**

**HOMELESS CERTIFICATION**

EHV Applicant Name: \_\_\_\_\_

Household without dependent children (complete one form for each adult in the household)

Household with dependent children (complete one form for household)

Number of persons in the household: \_\_\_\_

**This is to certify that the above-named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation-**

**Check only one box and complete only that section**

---

**Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)**

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or campground.

Description of current living situation:

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Homeless Street Outreach Program

Name: \_\_\_\_\_

*This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.*

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Living Situation: Emergency Shelter**

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name:

\_\_\_\_\_

*This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).*

Authorized Agency Representative Signature: \_\_\_\_\_ Date  
: \_\_\_\_\_

---

**Living Situation: Recently Homeless**

The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)

Authorized Agency Representative Signature:

\_\_\_\_\_

*This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.*

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

emergency shelter OR  a place unfit for human habitation

Authorized Agency Representative Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

---

## CHAPTER 18

### Exhibit 18-3: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION

#### *Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification*

### Emergency Housing Voucher (EHV)

#### SAMPLE HUMAN TRAFFICKING CERTIFICATION

##### **Purpose of Form:**

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally funded social service programs available to assist victims in rebuilding their lives.

##### **Use of This Optional Form:**

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for EHV assistance.

**Confidentiality:** All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

---

#### **TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR**

EHV Applicant Name: \_\_\_\_\_

**This is to certify that the above-named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.**

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

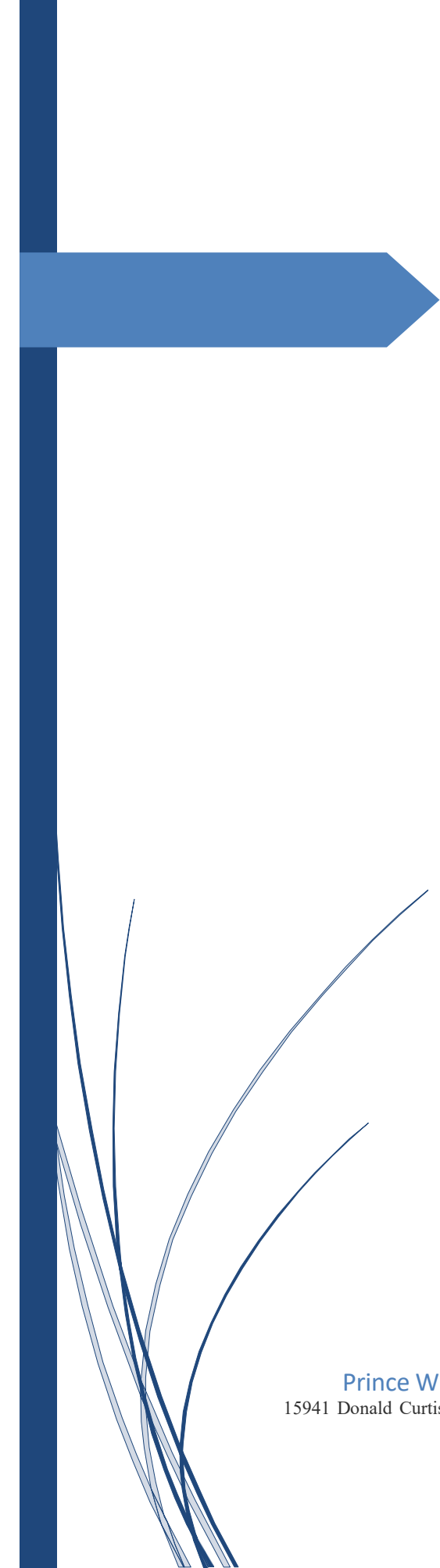
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This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

**Authorized Agency Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_**

**CHAPTER 18**





# Family Self- Sufficiency Program

Action Plan

Revised 10.28.2022

Prince William County Office of Housing & Community Development

15941 Donald Curtis Drive • Suite 112 Woodbridge, Virginia 22191 Phone 703.792.7530 • Fax 703.792.4978



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## Introduction to Program Purpose and History

### *1993 - Present*

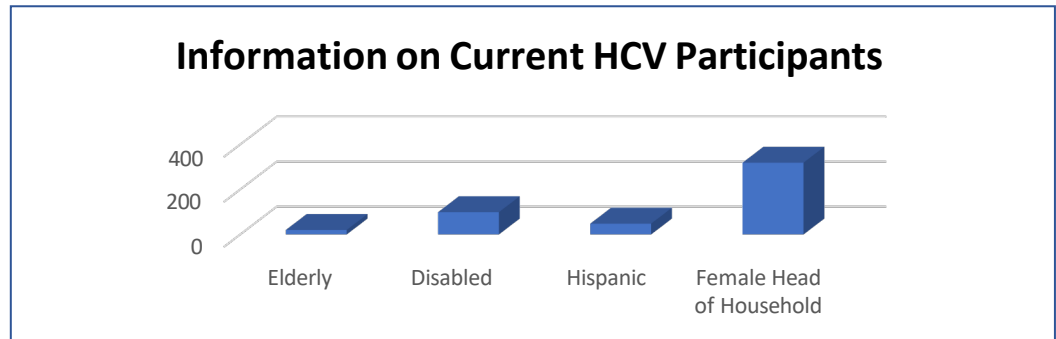
The Family Self-Sufficiency (FSS) program is a United States Department of Housing and Urban Development (HUD) designed program to provide participants receiving Housing Choice Voucher Program assistance in becoming self-sufficient and independent of public assistance. The program serves families who volunteer to participate by providing case management and referral to community supportive services.

The initial Action Plan for the FSS program was designed for the City of Manassas together with the Prince William County Office of Housing and Community Development (hereinafter referred to as OHCD), was submitted in July of 1992 and approved. Information was distributed to the Section 8 participating families and the first families were enrolled in 1993. As of June 2001, the City of Manassas/Manassas Park FSS Plan became independent of Prince William County. Each jurisdiction continues to maintain separate Action Plans. The FSS program and the functions and responsibilities of the PHA staff are consistent with the Prince William County Office of Housing & Community Development (OHCD) personnel policy and PHA Plan. The most recent revision for Prince William County was effective November 2022.

The Program has grown steadily, showing marked growth especially since 2001, which coincided with the introduction of the Welfare to Work voucher program. This marked history of growth and planned future program enhancement requires that the policies and procedures be reexamined to best serve the growing numbers of families that desire the same outcomes as the FSS program seeks to provide - the independence from governmental assistance and the economic empowerment of their families.

Prince William County Office of Housing & Community Development (OHCD) FSS program purpose is to seek to help families make progress toward economic security by supporting the participating families' efforts to obtain the following goals:

- Increase earned income
- Build financial capability
- Achieve financial goals

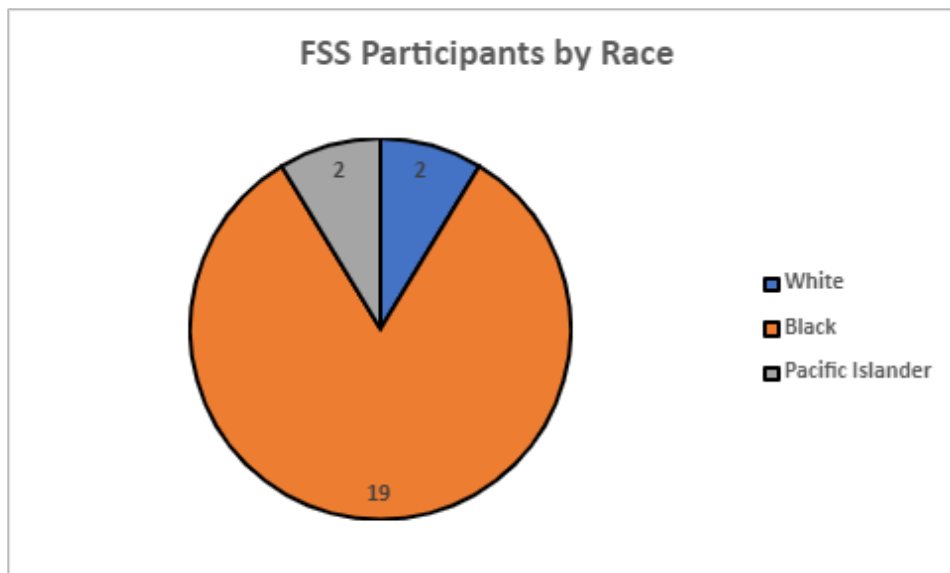


## Family Demographics

The family demographics of those families eligible to participate slightly vary from current participants. Those eligible for enrollment in the FSS program no longer is limited to the Head of Household but may now be any adult member of the household as designated by the family as the Head of the FSS Family. Head of FSS Family is defined as the designated adult family member of the FSS family who has signed the Contract of Participation. There is only one Contract of Participation per family and Escrow will go to the person who signs the Contract of Participation. The head of FSS family may, but is not required to be, the head of the household for purposes of determining income eligibility and rent. Any changes in the designation of the head of the FSS Family must be provided in writing to the FSS Coordinator.

All eligible participants currently receive Housing Choice Voucher assistance and have vouchers either held or administered by Prince William County OHCD. Those families who decide to relocate and live in another area are ineligible to participate in Prince William County's FSS program due to lack of resources.

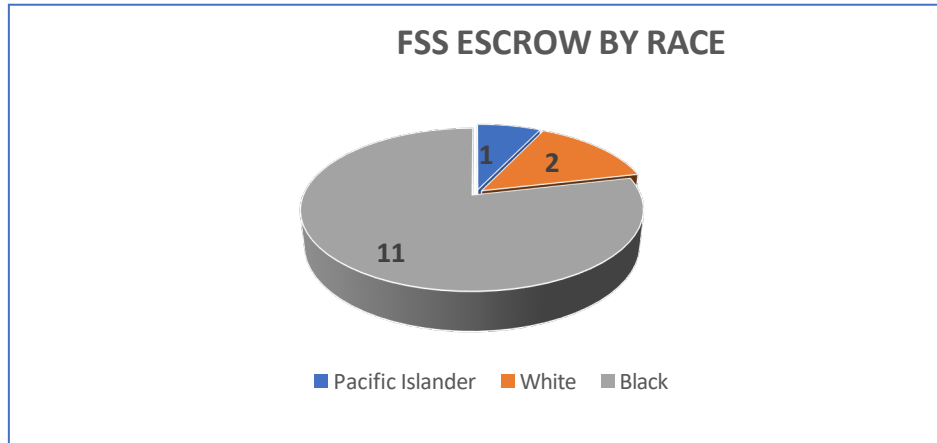
We have chosen to list the following demographic data to describe current FSS participant populations by race. All participants are non-Hispanic.



**FSS ACTION PLAN**

Current participants with escrow account, the percentage of single adult households with dependents is 23 or 82%. Disabled households represent 3 or 13% of eligible households.

Racial breakdowns among FSS escrow account households are as follows:



### Estimate of Participating Families- Program Size

Historically, Prince William County’s FSS program has enrolled on average 5 new families into the FSS program each year expects to be able to provide FSS Services to our goal of 42 families over a five-year period. Based on the available and anticipated combined resources, Prince William County OHCD remains committed to its current program size of 42. A voluntary program, Prince William County OHCD will continue to maintain the FSS Program with successful self-sufficient families and will seek to increase the numbers of those families that reach homeownership.

### FSS Family Selection Procedures

All current recipients of Housing Choice Voucher Program assistance in Prince William County who are in good standing are also eligible for participation in the Family Self-Sufficiency Program.

Families are selected to participate in the FSS program based on the date order of application submission and are called from the waiting list in date order of application. This selection is absolutely without regard to race, color, creed, religion, ancestry, national origin, sex, disability, age, marital/familial status, **status to public assistance, sexual orientation, gender identity or expression, genetic characteristics, or U.S. military veteran status.**

#### FSS Portability

Families who exercise their right to portability of the Housing Choice Voucher (**not FSS Voucher**) and move to Prince William County, and who are participants in their originating jurisdiction's Housing Choice Voucher Program, will be accepted into the Prince William County program, and their voucher usually absorbed.

## **FSS ACTION PLAN**

Current FSS participants who wish to port to another jurisdiction may do so within the initial 12 months after execution of the Contract of Participation, if the receiving jurisdiction operates an FSS program. If the FSS program is through and FSS Voucher the receiving jurisdiction must absorb because Prince William County Office of Housing and Community Development is not recipient of any FSS Vouchers.

If continued participation in FSS is not possible, the initial PHA (Prince William County Office of Housing and Community Development) must clearly discuss the options that may be available to the family, depending on the family's specific circumstances, which may include, but are not limited to,

- modification of the FSS Contract of Participation
- termination with FSS escrow disbursement
- termination of the FSS contract and forfeiture of escrow
- locating a receiving PHA that administers an FSS program.

### **Reasonable Accommodations, Communication and Limited English Proficiency**

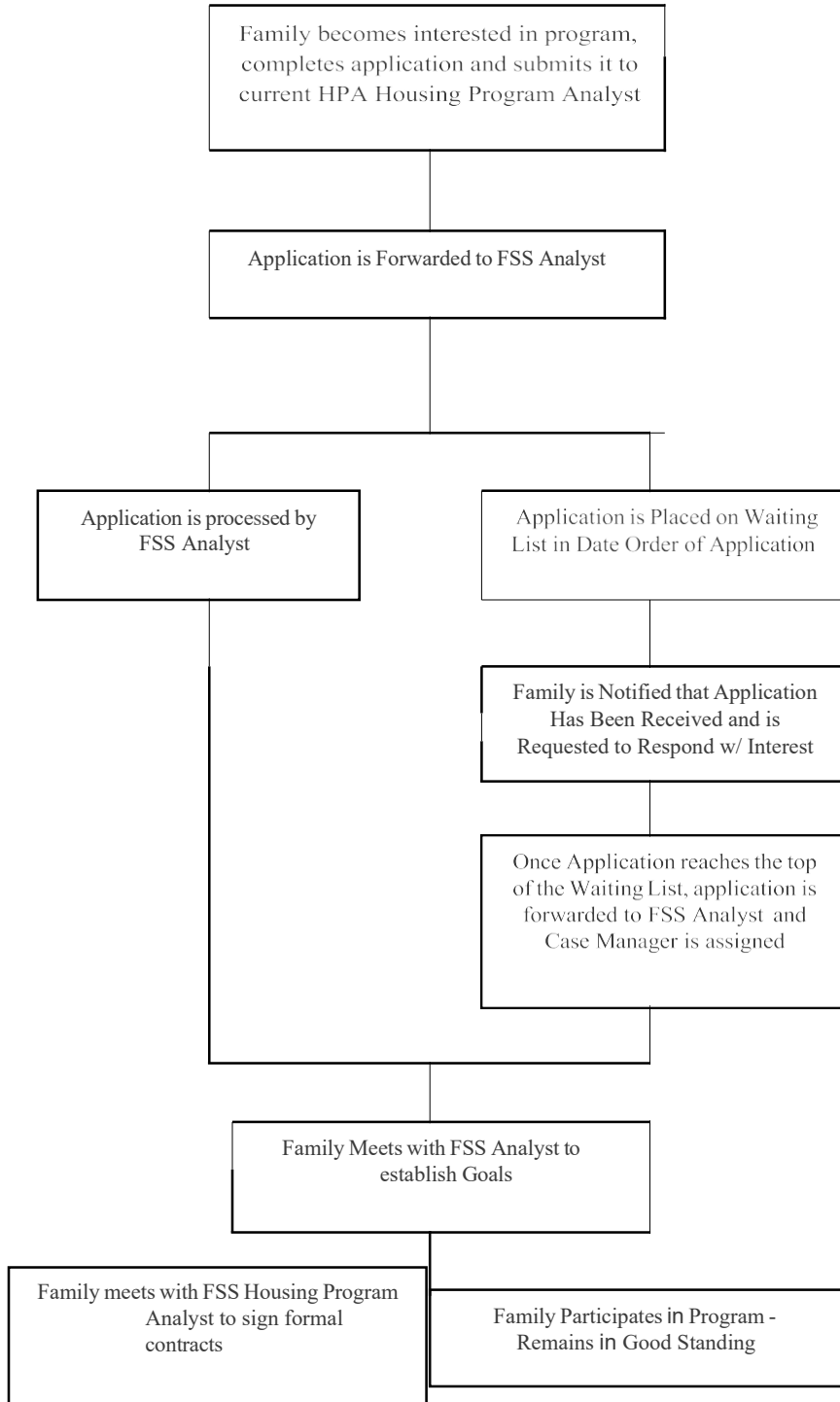
Current FSS Participants may request Reasonable Accommodations as needed. A person with disabilities may request reasonable accommodations to facilitate participation in the FSS program. Requests will be considered on a case-by-case basis. Requests should be made initially to the FSS coordinator. If a family is not satisfied with the FSS Coordinator's response, the family may submit a request in writing in accordance with the agency's reasonable accommodations policy. The policy is available online on the Office of Housing website.

**Request for Effective Communications** A person with disabilities may request the use of effective communication strategies in order to facilitate participation in the FSS program. Requests should be made initially to the FSS coordinator. If a family is not satisfied with the FSS Coordinator's response, the family may submit a request in writing in accordance with the agency's effective communications policy. The policy is available online at on the Office of Housing website.

**FSS ACTION PLAN**

# Process of Becoming a Family Self-Sufficiency Program Participant

*From expressed interest to active client.*





## FSS ACTION PLAN

### Incentives to Encourage Participation

Currently the strongest incentive to encourage participation is a family's full comprehension of the program's benefits. Once a family truly learns how full participation in, and compliance with, the program will enhance their quality of life, coupled with the additional benefit of the escrow account, most families understandably want to participate. Further, participation is more consistent when this understanding is gained in advance and reinforced during the contract. To ensure that new families have a full understanding of the program's guidelines, the family is educated prior to signing a contract in a multi-tiered format:

- A family learns of the Family Self-Sufficiency Program usually during the Voucher Issuance or Annual Recertification briefing when a brief overview is given of the program. The family then has the opportunity to speak with the Family Self-Sufficiency (FSS) Analyst and gain a full understanding of the program.
- Once a family has applied and their application is processed for admission to the program - a meeting occurs with the Case Manager to fully review the program, the family's responsibilities and the Contract of Participation.
- Once that meeting has occurred, the family meets with the FSS Analyst at OHCD to confirm their understanding of the program., reinforce program participation, compliance and sign the Contract of Participation.

### Outreach Efforts

The primary mode of outreach is the Voucher Issuance and Annual Recertification Briefings where an overview of the Family Self-Sufficiency Program is given during the regular briefing session.

Also, at least once per year information sessions are held for current Housing Choice Voucher. Participants are given a formal introduction to the Family Self-Sufficiency Program.

Attendance during the briefings and/or information sessions is in no way determined, or influenced, by minority or non-minority status.

### FSS Activities and Support Services

#### **FSS Program Coordinator**

FSS Program Coordinator means the person(s) who runs the FSS program. This may include (but not limited to) performing outreach, recruitment, and retention of FSS Participants; goal setting and case management/coaching of FSS participants; working with the community and service partners; and tracking program performance.

---

## FSS ACTION PLAN

### Case Management

Each FSS family receives individualized and often intensive case management by an individual FSS Analyst that is assigned to the family upon their entrance into the FSS program.

Some of the anticipated outcomes from case management are synonymous with HUD's goals for families who participate in the FSS program:

- Family members obtain their first job;
- Family members obtain higher paying jobs;
- Families no longer need benefits from one or more welfare or public assistance programs;
- Family members obtain a high school diploma or a higher education degree;
- Family members Families start, or expand, a micro- or small business; and/or
- Families purchase a home.

In order to provide the most effective individualized case management clients are viewed as progressing through the program in two phases of development with defined goals and outcomes for each stage.

### Phase 1

At this initial level of case management, clients become routinized in meeting the requirements of the program and begin the process to reach self-sufficiency. It is understood that clients will enter the program at various stages of development relative to their background, skills and education. **Therefore, a large part of this phase of case management includes assessment and identifying various supportive services initially that may be needed.** Activities that occur during this phase of case management, which include the continuous identification of supportive services, include:

- An initial needs assessment utilizing the application, interviews with the client and other instruments as needed;
- Calculation of Self-Sufficiency Standard to attempt to determine what wages are needed for the family to be successful in maintaining current financial responsibilities and reaching intermediary financial goals;
- Formulation of the Contract of Participation with interim and final goals;
- An individualized action plan with prescribed activities and services necessary to complete the goals;
- Scheduled meetings with FSS Analyst;
- No less than quarterly support group meetings/seminars;
- Linkage to community resources; and
- Intermittent monitoring of client progress and program compliance.

## **FSS ACTION PLAN**

### **Phase 1 Goals/Outcomes**

- Eradication of credit problems with either payment plans or payment in full;
- Establishment of positive credit history of 12 months or more;
- Achievement of wages required in Self-Sufficiency Standard;
- Credit score at acceptable level for consideration of home purchase;
- Adherence to monthly budget for at least 12 months; and
- Escrowing for at least 12 months

### **Phase 2**

At, or about, the fourth year during the Contract of Participation, the family is considered to have entered the second phase gearing the family toward the completion of the Contract. Clients are actively counseled toward closure, if possible, of obstacles that were present in the beginning phase of the Contract that posed barriers to self-sufficiency, and that are able to be resolved through the guidance of the FSS Analyst and initiative of the client. Counseling becomes focused on reaching final goals - homeownership, professional and career development and/or entrepreneurship, and educational pursuits.

### **Phase 2 Goals/Outcomes**

- Contract completion
- Professional and career development and/or entrepreneurship
- Achievement of educational goals
- Homeownership
- Independence from housing assistance

### **Supportive Services**

There are several identified supportive service needs for current and eligible families. Since the program's inception, several positive relationships have been formed with agencies and vendors with whom clients have been successfully served. In addition, other supportive services have been identified. Supportive service identification is a continual process and gathering the commitment of effective resources is a continued goal of the program.

**FSS ACTION PLAN**

**Supportive Services Provider Directory**

<b>NEED</b>	<b>PROVIDER</b>	<b>SERVICES</b>
<b>FAMILY CARE AND SKILLS TRAINING</b>		
Child Care-Infant, Toddler, Before and After School Care (on an as-needed or ongoing basis)	PWC Department of Social Service	Child care subsidy assistance
Family Life Skills Training	Northern Virginia Family Services SERVICE Program, Team Up's Resources	Emergency assistance on life skills life skills classes
Homemaking & Household management	Virginia Cooperative Extension,	Seminars, individual mentoring on homemaking and household management
Money Management	Local Banking Institutions	Financial Seminars
	Consumer Credit Counseling Service (CCCS)	Credit building, debt relief, housing assistance seminars and counseling
	Northern Virginia Family Service (NVFS)	Budget, Credit counseling, debt consolidation, budget training
<b>CHILD DEVELOPMENT AND PARENT SKILLS</b>	Virginia Cooperative Extension	Mandated Court Order Parenting Classes Systematic Training of Effective Parenting Program (STEP): When Families Get Angry (WFGA) Class Juvenile Justice Parenting Program: Parenting of Teens (JJPP) Class
	Prince William County Community Services	Infant and Toddler Connection of action of Greater Prince William early intervention and support services
<b>TRANSPORTATION</b>	Omni link	Public Bus Service, Ride Sharing and Wheels-to- Wellness Program that provides to FSS family members the ability to receive services and ability to commute to their employment, medical transportation for seniors and persons with disabilities
	Virginia Railway Express	Train service from the Northern Virginia suburbs to Alexandria, Crystal City and downtown Washington, D.C., along the I-66 and I-95 corridors

**FSS ACTION PLAN**

	Modivcare (formerly LogistiCare)	Non-emergency medical transportation for Medicaid participants
<b>EDUCATION</b>		
GED certification, Remedial education, education for completion of high school or attainment of a high school equivalency certificate, education in pursuit of a post-secondary degree of certificate	Prince William Adult Education Program	GED preparation and testing, English Language Acquisition (ELA) classes and Literacy
	Literacy volunteers of America	Tutoring
	Northern Virginia Family Services- TRAINING FUTURES Program	Workforce Development and Team Up's Resource support training services
	Virginia Career Works	FREE Career Training and Certifications Supportive services from a network of educational partners Employment and work force development
Post-secondary education	Northern Virginia Community College	Career and education counseling, remedial education, education for completion of secondary or post-secondary schooling, noncredit job training and personal growth courses, financial aid counseling family life skills seminars, networking with business industry for on-the-job training, student employment under federal guidelines, scholarships in selected fields
	George Mason University	Executive and Professional Education programs for working adults 78 undergraduate degrees, with a variety of concentrations 94 master's degrees 38 doctoral degrees A law school.
	Strayer University	Executive and Professional Education programs for working adults  Degree programs: 20 Graduate and undergraduate concentrations Specializations: 65 Undergraduate diploma program: 1 Certificate programs: 10
<b>EMPLOYMENT</b>		
	Virginia Career Works	Employment Agency, access jobs, job education, training, labor market information, and follow-up assistance after job placement and completion of the Contract of Participation
	Temporary Solutions	Temporary staffing company

## FSS ACTION PLAN

Job Development and Placement	Virginia Department for Aging and Rehabilitative Services	Senior Community Service Employment Program, Vocational Rehabilitation Program, Wilson Workforce and Rehabilitation Center
	Virginia Department of Social Service	Virginia Initiative for Employment Not Welfare Employment Advancement for TANF Participants, SNAP Employment and Training Virginia Refugee Resettlement Program
	Virginia Employment Commission-Virginia Workforce Connection (VAWC)	Virginia Employment Commission-Virginia Workforce Connection (VAWC)
Job Training Preparation and Counseling	Virginia Workforce Connection – PWC Elevate Job Seekers	Career Coaching GED/HS Diploma Preparation Assistance Job Readiness Webinars Occupational Training Subsidized Work Experience Online Job Fairs Referrals for Employment
<b>ENTREPRENEURSHIP TRAINING AND MENTORING</b>	Small Business Administration (SBA)	Supportive services to assist small businesses Free business counseling Funding Programs Loans
	Service Corps of Retired Executives (SCORE)	Business counseling and mentorship Financing Human Resource Business Planning
	Women’s Business Center of Northern Virginia	Business resources and mentorship for women-owned businesses Business Training Counseling Federal Contracts Access to credit and capital
	Veterans Business Outreach Center (VBOC)	Resources to veterans who are interested in starting or growing a small business Business training Counseling Partner referrals
<b>HOUSING</b>		
Counseling in homeownership	Virginia Cooperative Extension	Homeownership Counseling
	Virginia Cooperative Extension	Responsible Renter Seminar Pros and cons of renting Goal setting Application Process Responsibilities and rights Avoiding eviction
	Virginia Cooperative Extension	Financial empowerment series and management, financial literacy financial coaching, default counseling, budgeting, and

**FSS ACTION PLAN**

		spending plan workshops, basic mainstream banking review of and improvement of credit scores
	Office of Housing and Community Development (OHCD)	Counseling and the areas of rental responsibilities, preparation form self-sufficiency and homeownership
<b>MEDICAL/MENTAL HEALTH</b>		
	PWC Department of Social Service	Medicaid: FAMIS for low-income children
	Social Security Administration	Medicare
	SENTARA Northern Virginia Medical Center	Emergency medical treatment, mobile medical clinic that serves the eastern end of the county (Potomac)
	Novant Health UVA Prince William Medical Center	Emergency medical treatment, mobile mammogram services located in Manassas
	Prince William Health District – Virginia Health Department	Two free clinics, one at each end of the county Clinical Services Communicable Disease Investigation and Surveillance Population Health Environmental Health Women, Infants and Children (WIC) Vital Records
	Northern Virginia Family Services- HEALTH ACCESS DENTAL ACCESS	Referrals and Supportive Services for medical and dental treatment for adults and children
<b>Substance Abuse Counseling and Mental Health Therapy and Counseling</b>	Prince William County Community Services	Adult Mental health and substance abuse case management, therapy, peer support services, discharge planning, medication assisted treatment, and psychiatric services. Youth and their families, individual, family, and group therapy, intensive in-home services, case management services and Behavioral Health Wellness Services through the New Horizons Program.
	Northern Virginia Family Services	Program services are provided at NVFS offices and integrated into home, school, and community settings, and include individual, family and group counseling, and mental health treatment and evaluation.
	Alcoholic Anonymous, Narcotics Anonymous, Ala-teen and Al-Anon	Available at many locations in the area.
<b>Other Services as Needed</b>	Prince William County Office of Housing & Community Development	Services and resources, including case management and assistance in other optional services and specialized services as needed for persons with disabilities, in order to achieve economic independence and self-sufficiency.
	Prince William County Office of Housing & Community Development	Reasonable accommodations and modification will be made for individuals with disabilities consistent with application Federal civil rights and nondiscrimination laws.

## FSS ACTION PLAN

### Escrow Account

The escrow account is an identified incentive for participation in the activities of the FSS program, and one of the rewards of the completion of the FSS Contract of Participation. The escrow account can also be accessed while participating in the FSS program, if certain threshold requirements are met and the purpose of accessing those funds directly relate to the completion of specific goals on the Contract of Participation. According to HUD regulations, interim disbursements are at the sole discretion of the PHA [which, for the purposes of this document, is the Prince William County Office of Housing and Community Development (OHCD)].

#### **Escrow:**

**Baseline/Current Annual Income Earned means**, for purposes of determining the FSS credit the FSS family's total annual earned income from wages and business income (if there is any) as of the effective date of the FSS Contract of Participation. In calculating baseline annual earned income, all applicable exclusions of income must be applied, except for any disregarded earned income or other adjustments associated with self-sufficiency incentives that may be applicable to the determination of annual income.

**Baseline/Current monthly rent means**, for purposes of determining the FSS credit

- (i) The FSS family's total tenant payment (TTP), as of the effective date of the FSS contract, for families paying an income-based rent as of the effective date of the FSS contract; or
- (ii) The amount of the flat or ceiling rent (which includes the applicable utility allowance), and including any hardship discounts, as of the effective date of the FSS contract, for families paying a flat or ceiling rent as of the effective date of the FSS contract

At enrollment into the FSS Program the most recent effective rent certification will be used to establish the baseline income.

#### **Escrow Calculation:**

The FSS Credit amount shall be the lower of:

- (i) Thirty (30) percent of one-twelfth (1/12) (i.e., two and a half (2.5) percent) of the amount by which the family's current annual earned income exceeds the family's baseline annual earned income; or
- (ii) The increase in the family's monthly rent. The increase in the family's monthly rent shall be the lower of:
  - (A) The amount by which the family's current monthly rent exceeds the family's baseline monthly rent;
  - (B) For HCV families, the difference between the baseline monthly rent and the current gross rent (i.e., rent to owner

plus, any utility allowance) or the payment standard, whichever is lower;



## **FSS ACTION PLAN**

### **Incorrect Income Reporting:**

If the FSS family has been found to have under-reported income after the baseline annual earned income was set, the amount credited to the FSS escrow account will be based on the income amounts originally reported by the FSS family.

If the FSS family is found to have under-reported income in the re-examination used to set the baseline, the escrow for the entire period of the CoP will be recalculated using the correct income to set the baseline and then calculate subsequent escrow amounts.

### **Accounting for Escrow:**

The PHA shall deposit the FSS escrow account funds of all families participating in an FSS program into a single interest-bearing depository account.

- The depository account may be part of the PHA's or owner's overall accounts or a separate account
- Such escrow credit amount must be deposited each month by the PHA into the family's FSS escrow account within the PHA's depository account.
- Escrow is deposited each month regardless of whether the family pays rent or pays it on time
- Amounts due to the PHA can only be taken by the PHA from the escrow account at the time of final disbursement

The figures used to provide a benchmark for calculating future escrow credits are recorded at the time that the family signs the contract. At each Annual and Interim Reexamination, the monthly escrow credit is recalculated, and a report is submitted to accounting for posting to the family's ledger account. Interest is calculated on the monthly balance and is posted to each family's account on the major ledger.

At least once per year, the family is notified of their existing monthly escrow credit, and the balance in the account including interest.

### **Non-Escrow Credits and Forfeited Escrows:**

There will be no escrow credits during anytime an HCV family is in the process of moving to a new unit and is not under lease.

All forfeited escrows will no longer go to the PHA/HAP fund but will now be deposited into a separate depository account which may be part of the PHA's overall accounts or a separate account to be used for the benefit of FSS families. These forfeited funds may be used for the following eligible activities:

- (i) To support FSS participants who are in good standing, including but not limited to transportation, childcare, training, testing fees, employment preparation costs, and other costs related to achieving obligations as may be outlined in the Contract of Participation; or
- (ii) Training for FSS Coordinators, or
- (iii) Other eligible activities as determined by HUD
- (iv) These funds may not be used for salary and fringe benefits of any FSS Program Coordinators; general administrative costs of the FSS program, for housing assistance payments (HAP) expenses or any other activity determined ineligible by HUD

## **FSS ACTION PLAN**

### **Interim Disbursements**

The early use of funds may be requested to assist the family in complying with the FSS contract and becoming self-sufficient (e.g., to pay school costs). Escrow funds may not be used prior to the completion of the contract to pay money owed to OHCD or the landlord. However, upon completion of the contract, OHCD may withhold from the final escrow disbursement any amounts owed to the PHA.

### **Number of Interim Disbursements**

Eligible categories for interim disbursements are discussed in detail in the following section. Only ONE interim disbursement from any eligible category will be approved during the family's participation in the Family Self-Sufficiency program for a maximum of one interim disbursement per calendar year.

### **Processing Timeframe and Procedure**

Processing timeframes for all escrow disbursement will be 30 days or less. The processing timeframe starts once the request is submitted to the family's FSS Analyst.

Interim disbursement requests are evaluated by FSS Analyst for validity and applicability to the completion of a specific goal in the Contract of Participation. At the time of the submitted request, documentation must be submitted by the family to substantiate the request. **The Office of Housing & Community Development will require a combination of self-certifications and third-party verifications to document completion of the Individual Training Service Plan (ITSP) goals.** The FSS Analyst must review the client's progress under the Contract of Participation to determine if the family meets the requirements to be able to submit a request. Once an escrow request is finalized, the request is forwarded for signature of the supervisor and Director through its administrative processes.

### **Threshold Requirements to be Met Before a Request Can be Submitted**

- At the time of the family's request, the family must have escrowed a full consecutive 12 month
- At the time of the family's request, the family must have strictly adhered to the program's requirements for the past 12 months unless exceptions have been made due to truly extenuating circumstances. If a family exercises portability into the Prince William County jurisdiction and requests a disbursement in less than 12 months of participation in Prince William's program, then the family must have adhered to program requirements for a total 12 months in the originating jurisdiction or combined with the time contiguous to time in Prince William County before receiving an interim disbursement of funds.
- All requests must have the signature of all adult members of the household since every adult member's earned income is considered for eligibility and rent, and therefore escrow determination.

## FSS ACTION PLAN

- All requests must be linked to a specific goal or activity on the Contract of Participation and justification must be presented to show how the disbursement will help complete the goal or activity.
- At the time of the family's request, ALL activities must have been completed in the Contract of Participation, and all interim goals met on scheduled according to the contract. Those completed activities and completed interim goals must be identified as a part of the escrow request.

*If there is an activity or interim goal that has not been completed within the scheduled timeframe on the Contract of Participation, the Contract must be amended BEFORE the request is submitted to OHCD.*

- The amount requested cannot exceed 25% of the account balance at the time of the request.

*If additional requirements are stipulated by OHCD, then those requirements must be met before any disbursement is processed.*

The eligible categories for interim disbursements are listed below along with the criterion that qualifies as valid documentation.

**Medical** - Interim disbursements can be used for current medical expenses - anticipated or actual. However, medical expenses that are requested to be paid with escrow funds cannot be medical expenses that have been deducted as an allowance from income for the purposes of rent calculation. To be considered a medical request, it cannot have become a collection issue - if so, it will be considered a credit issue. *Valid and required documentation:* Statement from family requesting disbursement, amount and which goal will be accomplished with the request; a statement attesting that no existing insurance can cover the expense and that the family is not receiving a deduction for same medical expenses from housing, *and* statement/bill from medical provider.

**Credit** - Disbursements can be used to clear up derogatory credit issues which affect the family's credit score, and therefore the ability to achieve homeownership or obtain transportation at reasonable interest rates. At the time of request, family must be active and compliant in a debt reduction plan. *Valid and required documentation:* Statement from family requesting disbursement, amount and which goal will be accomplished with the request; *and* proof of enrollment and status in a debt reduction plan.

**Education**- Interim disbursements can be used to pay for educational expenses for goals that are outlined in the Contract of Participation. Education expenses that are requested *to* be paid from escrow funds cannot be expenses that are eligible for tax deduction or have been covered by any financial assistance received or anticipated. This includes employer reimbursed expenses. *Valid and required documentation:* Statement from family requesting disbursement, amount, which goal will be accomplished with the request and certification that the educational expenses for which the escrow funds have been requested will not be paid by another party; *and* verifiable proof of enrollment or completion.

## FSS ACTION PLAN

**Transportation** - Disbursements can be used for car purchase, down payment or repair of cars, or other transportation expenses, such as Omni link or VRE fare, only if it is not being reimbursed by the employer or another social services entity. *Valid and required documentation:* Statement from family requesting disbursement outlining need and which goal(s) will be accomplished with the request; proof of anticipated purchase or estimate from mechanic on legitimate stationery/ form; proof of ownership for the car for which repair requests are submitted; *and* statement attesting that stated repairs will only be paid by escrow funds (instead of insurance claims, etc.), and that if other sources pay for those same repairs in the immediate future, that escrow funds will be repaid within 30 days.

**Homeownership** - Disbursements can be used for earnest money, closing costs or other expenses used in preparation for homeownership (i.e., home inspection, appraisal, etc.) *Valid and required documentation:* A valid sales contract, and prequalification letter from a lender or supporting documentation from an OHCD /HAP (Homeownership Assistance Program) representative. If the funds are granted, but the purchase does not go through to settlement and the family decides to continue

to rent; then all funds granted toward purchase must be deposited into an interest-bearing account. If funds are needed in the future for settlement or purchase prior to contract completion, the initial funds requested must be accounted for before additional funds can be allocated for settlement.

**Entrepreneurship** - Interim disbursements can be used for the start-up or expansion of a business. *Valid and required documentation:* Family must present a statement requesting the funds and which goal(s) the funds will help complete, a business plan, *and* have had the business plan reviewed by a counselor [Small Business Administration (SBA) or Service Corps of Retired Executives (SCORE)]. *In addition*, the family must provide proof that they have attended a relevant business class or seminar within the past 6 months.

### **Actions Following Disbursement**

Upon disbursement, each recipient must follow up with the OHCD FSS Analyst and provide proof that the funds were used for the approved circumstance(s) for which they were requested within 10 business days. Business days are Monday through Friday, excluding occasions when OHCD is not open (i.e., holidays, weather closings etc.).

### **Compliance Issues**

If any family does not provide receipts within ten (10) business days to prove the disbursement was applied properly - the family must repay those funds within 60 days. Failure to provide receipts to prove the full disbursement was applied properly constitutes fraud and will be grounds for termination of participation in the Family Self-Sufficiency (FSS) Program and the Housing Choice Voucher (HCV) Program. Termination proceedings will only be suspended if the family signs an acknowledgement of this debt for the amount that was not spent properly and a repayment agreement to be repaid within 60 calendar days of the disbursement. In addition, the family will not be allowed to request any additional interim disbursements during the Contract of Participation.

## **FSS ACTION PLAN**

### **Contract of Participation Termination**

The Contract of Participation will be terminated with FSS disbursement when:

- (i) Services that the PHA and the FSS family have agreed are integral to the FSS family's advancement towards self-sufficiency are unavailable
- (ii) The FSS family participant (24CFR 984.103) becomes permanently disabled and unable to work during the period of the contract, unless the PHA and the FSS family participant determine that it is possible to modify the contract to designate a new participant of the FSS family; or
- (iii) An FSS family in good standing moves outside the jurisdiction of the PHA (in accordance with portability requirements at §982.353 of this chapter) for good cause, as determined by the PHA, and continuation of the Contract of Participation after the move, or completion of the Contract of Participation prior to the move, is not possible

## **Contract Completion/Extension Policy**

### **Completion of Contract**

The Contract of Participation is considered completed when:

For the purpose of the FSS Program Welfare Assistance means:

Income Assistance from Federal (i.e., Temporary Assistance for Needy Families (TANF) or subsequent programs), State or local welfare programs and includes only cash maintenance payments designed to meet a family's goal ongoing basic needs. Welfare Assistance does not include:

- Child only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not on the need of the child's current non-parental caretaker.

The family has become independent of regular cash Welfare assistance before the expiration of the term of the Contract of Participation including any extension thereof AND meets one of the following conditions:

1. Fulfill all responsibilities under the contract on or before the expiration of the Contract of Participation and any extension; or
2. As defined in the FSS regulations (24 CFR 984.303(4)(iii)), a determination of what constitutes "suitable employment" for each family member with a goal of seeking and maintaining it, will be made by the Office of Housing and Community Development, with the agreement of the affected participant, based on the skills, education, job training and receipt of other benefits of the family member and based on the available job training opportunities within the community.
3. Each FSS family will be required to fulfill the identified obligations as stipulated within the Contract of Participation of which the participating family has committed itself based upon the requirements under the Contract of Participation no later than 5-years after the first re-examination of income after the execution date of the Contract of Participation.

## FSS ACTION PLAN

### Seek Employment

Job ready participants must make a minimum number of job contacts per week as outlined in their Contract of Participation. Job contacts need to be made in person and documented by the participant by completing a job lead sheet which will be submitted to the FSS Analyst. For some employment objectives, it would be acceptable for the participant to submit resumes to prospective employers and submit copies of the cover letter, confirmation letters for the receipt of resumes for positions or in other cases a list of employers to the case manager as documentation of the job search effort.

### Maintain Employment

Participants who become employed will be required to maintain employment. **If conditions arise in which a participant thinks it is necessary to resign from employment, the participant is required to consult with the FSS Analyst prior to resigning unless there are extraordinary extenuating circumstances. If this occurs, the FSS Analyst must be contacted as soon as possible.**

The FSS Analyst will examine the situation to ensure that all options have been explored which would permit the participant to continue employment, obtain another job with equal or better pay and benefits, or improve their career potential.

### Extension

Contracts of Participation can be extended for a total of two years. Extensions are usually granted for one-year increments. The conditions that allow an extension to be granted beyond five years are as follows:

- Documented medical reasons
- Educational completion requirements that exceed five years
- Involuntary loss of employment for reasons beyond the control of the participant.
- **Additional time to fulfill the interim goal that the family is welfare free before the expiration of the term of the Contract of Participation, including any extensions.**

*Special consideration for an extension will be given on a case-by-case basis after consultation with the FSS Analyst and approval by both the supervisor and Director.*

## Program Status: Probation and Termination

Program status is the standing that the family has at any given time during participation in the FSS program, relative to full compliance with the rules and regulations of the FSS program and adherence to the Contract of Participation. Families are continually reviewed for compliance to the rules and regulations of both the Housing Choice Voucher program and the Family Self-Sufficiency program.

### Good Standing

Families that are in good standing are in compliance with both Housing Choice

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## **FSS ACTION PLAN**

Voucher (HCV) and Family Self-Sufficiency (FSS) program rules and regulations and are making satisfactory progress in completing their contract.

### **Program Non-compliance**

Families that are non-compliant are either in jeopardy of losing their housing assistance due to violations of the HCV program or are non-compliant with the rules of the FSS program. The FSS Analyst reviews cases on a regular basis to determine compliance. Once the FSS Analyst reviews the case and finds it non-compliant, he/ she makes a concerted effort to assist the family in restoring themselves to good standing. If the family fails to comply, the family could possibly be terminated from participation in the FSS program, and possible termination of participation in the HCV program.

Families referred to OHCD for non-compliance will be assessed for termination based on the nature of the offense; whether or not the family was on probation; and what opportunities the family has been given to comply with the program.

Once assessed by OHCD, if probation is determined to be the best outcome, the family will be required to sign a Memorandum of Understanding reiterating their need to comply with the rules and regulations of the program; the projected time period of the probation, and the potential outcomes of non-compliance with the probation. At the end of the probationary period, the FSS Analyst will certify that the family has been restored to good standing, or for termination.

The family is issued a notice of termination from the FSS program. The family is also given the opportunity to have a face-to-face review of the circumstances. This review will be conducted by the FSS Review Panel. A three-person subcommittee of the FSS Program Coordinating Committee can act as the FSS Review Panel.

The Panel will decide:

1. if the family will be placed on probation; or
2. if there are sufficient grounds for formal termination in the FSS Program

### **Probation**

If the family was formerly on probation, there will not be a second probation allowed for the same circumstances. However, if the family has not received probation in the past, and the Review Panel determines that the family will be placed on probation, the Panel and family will review the circumstances and develop a plan to bring the family into compliance with the Contract.

Probationary status begins once the plan has been agreed upon. The participating family is then responsible for resuming contact with the FSS Analyst within 48 hours. Probationary status lasts for a minimum of three (3) months.

### **Termination**

The FSS Analyst processes the case for termination from the Family Self-Sufficiency program and reviews the case for possible termination of Housing Choice Voucher assistance.

If the family is referred for probation, and the family fails to comply with that status;

## **FSS ACTION PLAN**

the family is not afforded a second Review Panel meeting for the same circumstance. The case is then termination from the Family Self-Sufficiency program and possibly the Housing Choice Voucher program.

### **Voluntary Withdrawal**

If a family wishes to voluntarily withdraw from the program, they must submit a written statement to the FSS Analyst. The FSS Analyst will review the case and if the circumstances warrant a withdrawal, will provide a case summary to the FSS Analyst for processing. If the case manager does not feel that the circumstances warrant a withdrawal, but termination instead, the case summary will document that finding.

Under certain circumstances, the FSS Analyst may refer a voluntary withdrawal case to the Review Panel for further consideration. If further consideration is not warranted, the FSS Analyst will process a voluntary withdrawal from the FSS program.

### **Housing Choice Voucher Participant Hearing Procedures**

If a family in the FSS program fails to comply, without good cause, with the Family Self-Sufficiency Contract of Participation they may be terminated from both the FSS and HCV Programs. If grounds are found to process the case for termination of both HCV and FSS assistance, there is the opportunity for the family to appeal the decision through a hearing process called an Informal Hearing.

Cases pending termination will be mailed a formal notice of termination stating the reasons for the termination by OHCD. Participants who disagree with the decision and wish to request an Informal Hearing must make a written request for an Informal Hearing within ten calendar days of the date of the formal notice. Participants that do not request a hearing within 10 days; fail to appear for the Informal Hearing; or fail to attempt to reschedule an Informal Hearing prior to the Hearing date, will waive all rights to an Informal Hearing.

At Informal Hearings, participants may be represented by a lawyer or other representative(s) at their own expense. All parties have the right to discovery, to present evidence and may question any witness(es). The OHCD Hearing Officer will conduct the hearing. Factual determinations relating to the individual circumstances of the participant shall be based on a preponderance of the evidence presented at the Hearing. A copy of the written decision shall be furnished by the Hearing Officer to the participant within 10-business days from the date of the Hearing. The proposed action of termination will not transpire until the results of the Hearing are concluded.

## **Readmission Policies**

Persons who have been terminated from the FSS program will not be permitted to

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## **FSS ACTION PLAN**

participate in the FSS program for one year from the date of termination. A new application must be completed, and readmission approved. A review process may be inherent in the readmission process to determine if the family has learned from the experience that caused termination; to review any steps the family has already undertaken and plans to take in the future to ensure their success as a readmitted family. Families can remain on the waiting list for the year before readmission.

Families who have voluntarily withdrawn from the FSS program must reapply to the waiting list and remain on the waiting list for no less than 6 months from the date of withdrawal, or when room becomes available, whichever is longer.

## **FSS Program Coordinating Committee (PCC)**

The FSS Program Coordinating Committee's function is to assist in securing commitments of public and private resources for the operation of the program; assist in developing and modifying the Action Plan; and in implementing the program.

Membership of the FSS Program Coordinating Committee shall consist of the following members, required and voluntary:

### **Required Membership**

OHCD Housing Choice Voucher Director (or Supervisor by proxy)

OHCD Family Self-Sufficiency Analyst

Family Self-Sufficiency Coordinator

FSS participant, (from an area-wide and/or local resident council in identifying the participant representation from Public Housing Agency

### **Voluntary Members**

FSS Case Managers DSS Representatives

Non-profit Service Providers Private

Business Representatives

Public/Private Educational - Training Institutions

Financial Empowerment Organizations

## **Timetable for Program Implementation**

The FSS program within Prince William County has been in place since 1993.

Any future timetables of program implementation focus on the enrichment of the program

### **Program Size**

Prince William County Office of Housing and Community Development currently has a program **size of 42** with **23 current participants**.

Prince William County OHCD will further implement a two-tiered case management paradigm based on the phases outlined in the case management section, to increase the effectiveness of the program and guide more families into

## **FSS ACTION PLAN**

homeownership, entrepreneurship and/or higher wage opportunities, and advanced educational opportunities so that families not only have a higher incidence of reaching self-sufficiency, but also maintain self-sufficiency with a lower rate of recidivism.

### **Assurance of Non-Interference**

If a family elects not to participate in the FSS program, it will not affect the family's admission to the Housing Choice Voucher/Section 8 program or the family's right to occupy in accordance with their lease.

### **Certification of Coordination**

Prince William County OHCD works closely with the Department of Social Service's Employment Services (formerly JOBS) division resulting in a high level of coordination among the various long-term assistance programs with little duplication of services. It has been certified by the Department of Social Services that participants in the HCV/Section 8 Family Self-Sufficiency (FSS) program will have access to the opportunities provided by these programs based upon mandated eligibility requirements. FSS participants who are receiving TANF, or meet family size and income guidelines, may be eligible for Employment Services. The services and activities provided by the Employment Services programs include:

- Case Management
- Employment and Career Counseling
- Job Skills Training
- Job Search Assistance
- Group Job Search Seminars
- Job Development and Placement
- Work Experience Opportunities
- On-The-Job Training
- After School and Summer Youth Employment Programs
- Referrals for Basic Education and GED preparation
- Assistance with Transportation

Childcare assistance is available for eligible TANF participants and through the childcare Block Grant.

Outside services provided to FSS participants will be coordinated with these programs to eliminate any duplication.

### **Program Evaluation**

The HUD mandated regulations of the Family Self-Sufficiency program require that families are guided in creating goals, monitored and measured by their progress and certified in the completion of those goals. In turn, the Prince William County OHCD FSS program seeks to display the same administrative integrity and evaluate itself using the same principles. Regular reporting of program statistics, required by HUD and Prince William County to fulfill county requirements, causes

## **FSS ACTION PLAN**

some interim internal assessment and reflection of the progress of the program. However, in light of the marked historical growth and planned enhancement of the FSS program in Prince William County, formal self-evaluation and goal setting becomes imperative. To this end, the Logic Modeling Tool (HUD Form 90610) will be used, in addition to other instruments, to establish guidelines for self-evaluation using the routine reporting requirements that are already in place to be the guide for the program's measurement of success.

Prince William County OHCD will also seek to enrich the FSS program, which is currently considered a vital component of the Housing Choice Voucher Program, to fulfill the following HUD strategic goals and policy priorities for our families:

### **Strategic goals**

- Increase homeownership opportunities.
- Strengthen communities.
- Promote participation of grass-roots faith-based and other community-based organizations.

### **Policy Priorities**

- Providing Increased Homeownership and Rental Opportunities for Low- and Moderate-Income Persons, Persons with Disabilities, the Elderly, Minorities, and Families with Limited English Proficiency.
- Improving the Quality of Life in our Nation's Communities.
- Providing Full and Equal Access to Grass-Roots Faith-Based and Other Community-Based Organizations in HUD Program Implementation.
- Removal of Barriers to Affordable Housing.

### **Prince William County OHCD FSS Program Goals**

- To increase family compliance with seminar requirements to **80%**.
- To increase family compliance with counselor meetings to **85%**
- To increase effective education of entrepreneurship to clients as a viable option to achieving self-sufficiency to 25% of participants.
- To increase homeownership by contract completion to **5%** of graduates.
- To increase the percentage of families who complete contracts without needing further housing assistance to **70%**.

### **Evaluation Tools**

- HUD Form 96010
- Participant surveys
- Graduate surveys
- Monthly and Annual Comprehensive Reports issued by FSS Analyst
- Annual SEMAP report to HUD
- **HUD Form 52650 [Family Self-Sufficiency (FSS) Program Contract of Participation]**
- OHCD Year End Fiscal Report to Prince William County

## CHAPTER 19

### SPECIAL PURPOSE VOUCHERS

#### INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Stability Voucher Program (SV)
- Veterans Affairs Supportive Housing (VASH)
- Mainstream Voucher Program (MS)
- Non-Elderly Disabled (NED)

#### PHA Policy

The PHA will administer the following types of special purpose vouchers:

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Stability Voucher Program (SV)

Part III: Veterans Affairs Supportive Housing (VASH)

Part IV: Mainstream Voucher Program (MS)

Part V: Non-Elderly Disabled (NED)

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

## **PART I: FAMILY UNIFICATION PROGRAM (FUP)**

### **19-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]**

#### **Overview**

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family’s child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA the period of time defined in the notice or Notice of Funding Availability/Opportunity NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA’s waiting list and determining whether they are eligible to receive assistance under the PHA’s HCV program.

### **Assigning Vouchers [FUP FAQs]**

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

#### OHCD Policy

The OHCD has not designated any specific number or percentage of FUP vouchers for youths or families. The OHCD will serve all referrals that meet program eligibility requirements, up to the OHCD's FUP voucher allocation.

### **19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)**

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

#### OHCD Policy

The OHCD has entered into an MOU with Prince William County Department of Social Services Protective Services Division.

## **Supportive Services**

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

### OHCD Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months. Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

### OHCD Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

## 19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

*Lack of adequate housing* means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability



- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

## 19-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

### Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25<sup>th</sup> birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - o Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

## **19-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]**

### **Maximum Assistance Period**

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

### **Assistance**

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meet one of the statutory exceptions described below).

### **Statutory Exceptions**

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### OHCD Policy

According to Virginia law, a person is legally considered incapacitated if a court finds they are unable to evaluate information, interactions with others, and their surroundings to such an extent they lack the capacity to:

- (i) provide for their health, care, safety, or therapeutic needs without the assistance or protection of a guardian; or
- (ii) manage property or financial affairs or provide for their support or for the support of their legal dependents without the assistance or protection of a conservator

The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

## Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### OHCD Policy

OHCD will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### OHCD Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, OHCD may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual’s education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

#### OHCD Policy

OHCD will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth’s hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

#### **FSS Enrollment at 24 Months**

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth have enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

#### OHCD Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, OHCD will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

## **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

## **FSS Enrollment After 48 Months**

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

### OHCD Policy

If an FSS slot becomes available between the 48 and 60-month marks, OHCD will not offer the FSS slot to a FUP youth.

## **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

## **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

## **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

### OHCD Policy

OHCD will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. OHCD will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, OHCD will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.



The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meet one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

## **19-I.F. REFERRALS AND WAITING LIST MANAGEMENT**

### **Referrals**

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

#### OHCD Policy

As part of the MOU, the OHCD and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the OHCD liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide OHCD with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

OHCD will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

OHCD must serve any referrals (youths or families) that meet all program eligibility requirements. If OHCD determines that it has received a sufficient number of referrals from the PCWA so that OHCD will be able to lease all FUP vouchers awarded, OHCD may request that the PCWA suspend transmission of referrals. If the OHCD determines that additional referrals will be needed after it has made such a request, the OHCD may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

## **Waiting List Placement**

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### PHA Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

## **Waiting List Selection**

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

## **19-I.G. PHA HCV ELIGIBILITY DETERMINATION**

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

### OHCD Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The OHCD will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

## **Additional FUP Eligibility Factors [FUP FAQs]**

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

### OHCD Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the OHCD in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19.I.H. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

#### PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

## **19-I.I. TERMINATION OF ASSISTANCE**

### **General Requirements**

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

### **FUP Family Vouchers**

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

#### PHA Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

## **FUP Youth Vouchers**

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

### OHCD Policy

The OHCD will not provide a selection preference on the HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.



## **9-I.J. FUP PORTABILITY**

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

### **Considerations for FUP Youth Vouchers**

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

## **19-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

### OHCD Policy

The OHCD will not project base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

## PART II: STABILITY VOUCHERS (SV)

### 19-II.A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2021-26; FR Notice 1/24/22]

The Stability Voucher Program is similar to the successful Emergency Housing Voucher Program (EHVs), funded by the American Rescue Plan Act (ARPA) in that they include programmatic flexibilities to help families successfully secure a unit. In coupling Stability Vouchers with CoC-funded supportive services, families can be provided resources and services that will help them to obtain and maintain housing.

To be eligible to receive an SV funding allocation, a PHA must currently administer an HCV program. Non-profit agencies that only administer Mainstream vouchers are not eligible to receive an SV allocation. The non-competitive allocation formula will be based on estimates of household experiencing or at risk of homelessness by geography.

#### **Household Eligibility.**

In order to be eligible for an SV, a household must meet one of four eligibility criteria:

- a. Individuals and families who are currently experiencing homelessness;
- b. Individuals and families at risk of homelessness;
- c. Individuals and families fleeing or attempting to flee domestic violence, dating violence, stalking, sexual assault; and
- d. Veterans and families that include a veteran family that meet one of the preceding criteria (a-c).

In general, the verification that the family meets one of these four eligibility categories is conducted by the CoC, or another partnering agency that makes direct referrals to the PHA. The CoC, or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance.

**Definitions.** The following definitions always apply with respect to SV eligibility, regardless of whether the PHA may have established another definition for any of these terms in its PHA administrative plan.

**At Risk of Homelessness** means the population defined by 24 CFR 578.3.

**Continuum of Care (CoC)** has the meaning provided in 24 CFR 578.3.

**Centralized or Coordinated Entry (CE) Assessment System** has the meaning provided in 24 CFR 578.3. 24 CFR 578.7(a)(8) details the responsibilities of the CoC to establish and operate this required system. In addition to the definition and responsibilities established in the Rule, HUD posted on its website, *CPD-17-01: Notice Establishing Additional Requirements for a Continuum of Care Centralized or Coordinated Assessment System*, establishing additional requirements related to the development and use of a centralized or coordinated entry assessment system. These systems help communities in assessing the needs, vulnerability level, and program eligibility of people

experiencing or imminently at risk of experiencing homelessness and linking them to available housing programs in the community using standardized access, assessment, prioritization, and referral processes. CE represents one of the opportunities for PHAs to collaborate with their local CoC.

**Dating violence** means violence committed by a person:

- a. Who is or has been in a social relationship of a romantic or intimate nature with the survivor; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - 1) the length of the relationship;
  - 2) the type of relationship; and
  - 3) the frequency of interaction between the persons involved in the relationship.

**Domestic violence** means the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a survivor, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who:

- a. is a current or former spouse or intimate partner of the survivor, or other person similarly situated to a spouse of the survivor;
- b. is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; c. shares a child in common with the survivor;
- d. is an adult family member of, or paid or nonpaid caregiver in an ongoing relationship of trust with, a survivor aged 50 or older or an adult survivor with disabilities; or
- e. commits acts against a youth or adult survivor who is protected from those acts under the family or domestic violence laws of the jurisdiction.

**Economic Abuse** is the term ‘economic abuse’, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to –

- a. restricts a person’s access to money, assets, credit, or financial information;
- b. unfairly uses a person’s personal economic resources, including money, assets, and credit, for one’s own advantage; or
- c. exerts undue influence over a person’s financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.

**Fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking** means any individual or family who is –

- a. experiencing trauma or a lack of safety related to, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized;
- b. has no other safe residence; and
- c. lacks the resources to obtain other safe permanent housing.

**Homeless** means the population defined by 24 CFR 578.3.

HUD is clarifying that persons who are fleeing or attempting to flee human trafficking qualify as homeless under paragraph (4) of the homeless definition at 24 CFR 578.3. HUD considers human trafficking, including labor and sex trafficking, to be “other dangerous or life-threatening conditions that relate to violence against the individual or family member” under paragraph (4) of the definition of homeless at 24 CFR 578.3. HUD will consider an individual or family as homeless under paragraph 4 of the homeless definition under the following circumstances where an individual or family: (1) is experiencing trauma or a lack of safety related to, or fleeing or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against the individual or a family member in the individual’s or family’s current housing situation, including where the health and safety of children are jeopardized; (2) has no other safe residence; and (3) lacks the resources to obtain other safe permanent housing.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the survivor lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- 1) Fear for the person’s individual safety or the safety of others; or
- 2) Suffer substantial emotional distress.

**Technological Abuse** means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

**Veteran** means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable. (38 U.S.C. § 101(2); 38 C.F.R. § 3.1(d).

**Victim Service provider** means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. This term includes rape crisis centers, sexual assault services programs, battered women’s domestic violence shelters, domestic violence transitional housing programs, culturally specific domestic violence or sexual assault providers, and other programs.

**Waivers and Alternative Requirements.** The Consolidated Appropriations Act, 2022 provided HUD with authority to waive certain statutory and regulatory requirements and establish alternative requirements for funding made available through the Transportation, Housing and Urban Development and Related Agencies Appropriations Act, 2021. Per the Consolidated Appropriations Act, 2022, the Secretary may waive or specify alternative requirements for

certain provisions other than those related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment.

SVs are tenant-based vouchers under Section 8(o) of the United States Housing Act of 1937. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. The administrative policies adopted in the PHA's written administrative plan apply to SVs vouchers unless such local policy conflicts with the requirements of this notice, or the waivers and alternative requirements.

A PHA may request additional good cause regulatory waivers as established in PIH Notice 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of the PHA.

**Required partnerships with the CoC and/or VSP and other organizations in the PHA's geographic area for direct referrals and services**

SVs are a resource that communities can use to house individuals and families who are experiencing homelessness, at risk of homelessness, are fleeing or attempting to flee domestic violence, dating violence, sexual, stalking, or human trafficking, or have unstable housing, as part of a community-wide plan to address homelessness. Like the Emergency Housing Voucher (EHV) program, SVs have specific eligibility criteria focused on particularly vulnerable families.

## **19-II.B. PARTNERING AGENCIES [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar]**

### **Public Child Welfare Agency (PCWA)**

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

#### OHCD Policy

The OHCD will implement a Foster Youth to Independence (FYI) program in partnership with Prince William County Department of Social Services.

The PCWA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

### **Continuum of Care (CoC) and Other Partners**

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.

#### OHCD Policy

In addition to the PCWA, OHCD will implement the FYI program in partnership with Continuum of Care.

## 19-II.C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2021-26; FYI Q&As; FYI FAQs]

The PCWA is responsible for certifying that the youth have prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25<sup>th</sup> birthday);
  - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

### **19-II.D. SUPPORTIVE SERVICES [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]**

Supportive services may be provided by the PHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

#### OHCD Policy

Additional supportive services will not be offered.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.



## **19-II.E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2021-26; FYI Updates and Partnering Opportunities Webinar FYI FAQs]**

### **Referrals**

The PCWA is responsible for certifying that the youth have prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meet eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

#### OHCD Policy

OHCD and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the OHCD liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide OHCD with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

OHCD will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

## **Waiting List Placement [Notice PIH 2021-26 and FYI FAQs]**

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### OHCD Policy

Within 10 business days of receiving the referral from the PCWA, OHCD will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible. OHCD will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, OHCD will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

## **Waiting List Selection**

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

## **19-II.F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]**

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meet HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

### OHCD Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to OHCD.

OHCD will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

### **Additional Eligibility Factors**

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

### OHCD Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by OHCD in writing following policies in Section 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19-II.G. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FYI voucher holder of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

#### OHCD Policy

Eligible applicants will be notified by OHCD in writing following policies in Section 3-III.F. of this policy. FYI youth will be briefed individually. The OHCD will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5.

Vouchers will be issued in accordance with OHCD policies in Chapter 5, Part II, except that OHCD will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2021-26].

#### **Turnover [FYI FAQs]**

For PHAs awarded FYI Tenant Protection Vouchers (TPVs) under Notice PIH 2019-20 where the recipient of the FYI TPV leaves the program, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26.

For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, the PHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, the PHA may request an FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, the PHA must notify HUD, and HUD will reduce the PHA's HCV assistance to account for the removal of the FYI assistance from the PHA's HCV baseline.

## **19-II.H. MAXIMUM ASSISTANCE PERIOD [Notice PIH 2021-26 and FYI FAQs; FR Notice 1/24/22]**

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

### **Extension of Assistance**

FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

### **Statutory Exceptions**

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA’s FSS program if they certify that they meet one of the exceptions below:

- The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### OHCD Policy

The OHCD defines *incapacitated person* as, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs. OHCD will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a OHCD-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception.

- The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### OHCD Policy

The OHCD will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

- The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### OHCD Policy

The OHCD will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a OHCD-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

## Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### OHCD Policy

The OHCD will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### OHCD Policy

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.

- The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The FYI voucher holder was employed.

#### OHCD Policy

The OHCD will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. OHCD may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

#### **FSS Enrollment at 24 Months**

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

#### OHCD Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

#### **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:



- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

### **FSS Enrollment After 48 Months**

The PHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension.

#### OHCD Policy

If an FSS slot becomes available between the 48 and 60-month marks, the OHCD will not offer the FSS slot to an FYI voucher holder.

### **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

### **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

### **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time

periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

### OHCD Policy

The OHCD will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The OHCD will provide each FYI voucher holder on the OHCD's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the OHCD will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 2.

The OHCD will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

- To verify compliance with the FSS requirement, the OHCD will examine its records to confirm, or obtain confirmation from the OHCD's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.
- To meet the education, workforce development, or employment requirement, the OHCD will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable.
  - Due to the timing of when the OHCD verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements.
- In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the OHCD that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

### **19-II.I. TERMINATION OF ASSISTANCE [FYI FAQs]**

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

#### OHCD Policy

The OHCD will not provide a selection preference on the OHCD's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

## **19-II.J. PORTABILITY [FYI FAQs]**

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth become a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

## **19-II.K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22]**

The PHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

### OHCD Policy

The OHCD will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

## PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

### 19-III.A. OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
- The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

### **19-III.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]**

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

#### OHCD Policy

In order to expedite the screening process, the OHCD will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the OHCD and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the OHCD prior to the meeting in order to allow the OHCD time to review them and start a file for the veteran.

After the VAMC has given OHCD a complete referral, the OHCD will perform an eligibility screening within five business days of receipt of a VAMC referral.

### **19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]**

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

#### **Social Security Numbers**

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

#### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

#### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

## **Income Eligibility**

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

### OHCD Policy

While income-targeting requirements will not be considered by the OHCD when families are referred by the partnering VAMC, the OHCD will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

## **Screening**

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

## **Denial of Assistance [Notice PIH 2008-37]**

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.



### **19-III.D. CHANGES IN FAMILY COMPOSITION**

#### **Adding Family Members [FR Notice 9/27/21]**

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

#### **Remaining Family Members [HUD-VASH Qs and As]**

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

#### **Family Break Up [HUD-VASH Qs and As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

## **19-III.E. LEASING [FR Notice 9/27/21]**

### **Waiting List**

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

### **Exception Payment Standards**

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

### **Voucher Issuance**

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

#### OHCD Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

### **Initial Lease Term**

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

### **Ineligible Housing [FR Notice 6/18/14]**

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

## **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

### OHCD Policy

To expedite the leasing process, the OHCD may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspection.

## **19-III.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]**

### **General Requirements**

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

### **Portability within the Initial VAMC or DSP's Catchment Area**

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
  - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area**

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA**

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeing a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

### **19-III.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]**

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

#### **Cessation of Case Management**

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

#### **VAWA [FR Notice 9/27/21]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

## **19-III.H. PROJECT-BASING VASH VOUCHERS**

### **General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]**

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

### **Failure to Participate in Case Management [FR Notice 9/27/21]**

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates, or the expiration of the reasonable time period given to vacate.

#### OHCD Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the OHCD will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

### **Moves [HUD-VASH Qs and As, FR Notice 9/27/21]**

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.



## **PART IV: MAINSTREAM VOUCHER PROGRAM**

### **19-IV.A. PROGRAM OVERVIEW [Notice PIH 2020-01]**

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

#### **19-IV.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]**

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not “age out” of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

#### **19-IV.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]**

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

##### OHCD Policy

The OHCD will implement a Mainstream program, in partnership with Prince William County Department of Social Services.

## 19-IV.D. WAITING LIST ADMINISTRATION

### General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

### Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

#### OHCD Policy

The OHCD claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The PHA will offer the following preference:

Preference 1. Families who live, work, or have been hired to work in the jurisdiction who are:

- Elderly (Elderly family means a family whose head or spouse or sole member is a person who is at least 62 years of age.), or
- Disabled (A disabled family is a family whose head, spouse, or sole member is a person with disabilities as defined by HUD), or
- Non-elderly person with disabilities who are transitioning out of institutional or other segregated settings, at serious risk of institutionalization, currently experiencing homeless, previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project, or those at risk of experiencing homelessness, or
- Homeless (HUD Final Rule Defining Homeless 76 FR 75994 [12-5-11]), or
- Graduates of Transitional Housing Program (as certified by local service provider or appropriate agency), or
- Victim(s) of Domestic Violence. Families that have been subjected to or victimized by a member of the family or household within the past 6 months. OHCD will require evidence that the family has been displaced as a result of

fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home. The following criteria are used to establish a family's eligibility for this preference:

- Actual or threatened physical violence directed against the applicant or the applicant's family by spouse or other household member who lives in the unit with the family,
- The actual or threatened violence must have occurred within the past 120 days or be of a continuing nature,
- An applicant who lives in a violent neighborhood or is fearful of other violence outside the household is not considered involuntarily displaced,
- To qualify for this preference, the abuser must still reside in the unit from which the victim was displaced. The applicant must certify that the abuser will not reside with the applicant unless OHCD gives prior written approval.
  - Approval is only granted if the abuser has received therapy or counseling that appears to minimize the recurrence of violent behavior or a counselor, therapist or other appropriate professional recommends in writing that the individual be allowed to reside with the family. If the abuser returns to the family without OHCD approval OHCD will deny or terminate assistance

Preference 2. Applicants who live or work in the County of Prince William.

Preference 3. Applicants who live or work in the Commonwealth of Virginia.

Preference 4. Applicants who do not qualify for Preference 1, 2 or 3.

#### **19-IV.E. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

#### **19-IV.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]**

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

## PART V: NON-ELDERLY DISABLED (NED) VOUCHERS

### 19-V.A. PROGRAM OVERVIEW [Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA’s HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA’s HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream)** vouchers enable non-elderly disabled families on the PHA’s waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA’s voucher waiting list.

## **19-V.B. ELIGIBLE POPULATION**

### **General Requirements [Notice PIH 2013-19]**

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not “age out,” as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

### **NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]**

In addition to being eligible for the PHA’s regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family’s head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

## **19-V.C. WAITING LIST**

### **General Requirements [Notice PIH 2013-19]**

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.

Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

### **NED Category 2 Referrals [NED Category 2 FAQs]**

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.



### **Reissuance of Turnover Vouchers [Notice PIH 2013-19]**

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

## **19-V.D. LEASE UP [Notice PIH 2013-19]**

### **Briefings**

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

#### OHCD Policy

In addition to providing families with a disabled person a list of accessible units known to the OHCD, the OHCD will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

OHCD will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

### **Voucher Term**

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

#### OHCD Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

## **Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]**

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

## **19-V.E. PORTABILITY [NED Category 2 FAQs]**

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

### OHCD Policy

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, or stalking.

## CHAPTER 19