

Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937 . The Act has been amended from time to time, and its requirements, as they apply to the Section 8 Tenant-Based Assistance Program, is described in and implemented throughout this Administrative Plan. The Section 8 tenant-based assistance programs are federally funded and administered for the City by the Bethlehem Housing Authority through its Section 8 housing office.

Administration of the Section 8 Program and the functions and responsibilities of the Housing Authority (PHA) staff shall be in compliance with the PHA's Personnel Policy and the Department of Housing and Urban Development's (HUD) Section 8 Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the PHA is city of Bethlehem.

A. STATEMENT OF PROGRAM APPROACH AND OBJECTIVES

"To provide safe, decent, sanitary and affordable rental housing for low income households and to provide these households with housing choices and the opportunity to move outside areas with a concentration of low income households."

B. LOCAL GOALS [24 CFR 982.1]

Part I

PHA Goal: Improve the quality of assisted housing

Objectives:

Improve public housing management: (PHAS score) ____

Improve voucher management: (SEMAP score) ____

Increase customer satisfaction:

Concentrate on efforts to improve specific management functions (list; e.g., public housing finance; voucher unit inspections)

Renovate or modernize public housing units:

Provide replacement public housing:

Provide replacement vouchers:

PHA Goal: Increase assisted housing choices

Objectives:

- Provide voucher mobility counseling:
- Conduct outreach efforts to potential voucher landlords
- Increase voucher payment standards
- Implement voucher homeownership program:
- Implement public housing or other homeownership programs.

HUD Strategic Goal: Promote self-sufficiency and asset development of families and individuals

PHA Goal: Promote self-sufficiency and asset development of assisted households

Objectives:

- Increase the number and percentage of employed persons in assisted families:
- Provide or attract supportive services to improve assistance recipients' employability:
- Provide or attract supportive services to increase independence for the elderly or families with disabilities.

HUD Strategic Goal: Ensure Equal Opportunity in Housing for all Americans

PHA Goal: Ensure equal opportunity and affirmatively further fair housing

Objectives:

- Undertake affirmative measures to ensure access to assisted housing regardless of race, color, religion national origin, sex, familial status, and disability:
- Undertake affirmative measures to provide a suitable living environment for families living in assisted housing, regardless of race, color, religion national origin, sex, familial status, and disability:
- Undertake affirmative measures to ensure accessible housing to persons with all varieties of disabilities regardless of unit size required:

Part II

The PHA has the following goals for the program:

To encourage self sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human services needs.

To create positive public awareness and expand the level of family, owner, and community support in accomplishing the PHA's mission.

To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.

To administer an efficient, high-performing agency through continuous improvement of the PHA's support systems and commitment to our employees and their development.

To provide decent, safe, and sanitary housing for very low income families while maintaining their rent payments at an affordable level.

To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.

To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.

To 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.

C. PURPOSE OF THE PLAN [24 CFR 982.54]

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 Agency Plan. The Housing Choice Voucher Program was implemented on 10/1/99, and pre-merger Housing Voucher tenancies and Over Fair Market Rent tenancies converted automatically to Housing Choice Voucher tenancies on that date. All other existing contracts remained in effect until the family's second reexamination after the merger date or when a new lease was executed.

The PHA is responsible for complying with all changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence. 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 Board of Commissioners of the agency, the pertinent sections included in the Agency Plan, and a copy provided to HUD.

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.

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program

D. ADMINISTRATIVE FEE RESERVE [24 CFR 982.54(d)(21)]

Expenditures from the Administrative Reserve (Operating Reserve) shall not be allowed for other housing purposes

E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the PHA's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Section 8 not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or 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.

F. TERMINOLOGY

The Bethlehem Housing Authority is referred to as "PHA" or "Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to landlords.

"Landlord" and "owner" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Section 8 program is also known as the Housing Choice Voucher Program.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the PHA.

"Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.

“Merger date” refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

G. FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The PHA shall not deny any family or individual the equal opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial or marital status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to Voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Voucher holder's briefing packet and available upon request at the front desk.

All Housing Authority staff will be required to attend fair housing training and informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to quality customer service. Fair Housing posters are posted throughout the Housing Authority office/s, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organization to keep current with new developments.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the PHA's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

The Bethlehem Housing Authority office is accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TTD telephone service provider.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of this PHA to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation for their disability before the PHA can grant such an accommodation. The PHA's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services. The availability of requesting an accommodation will be made known by including notices on PHA forms and letters. This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this Administrative Plan including when a family initiates contact with the PHA, when the PHA initiates contact with a family including when a family applies, and when the PHA schedules or reschedules appointments of any kind.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual;

A record of such impairment; or

Being regarded as having such an impairment

Note: This is not the same as the HUD definition used for purposes of determining allowances.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse discontinued.

Once the person's status as a qualified person with a disability is confirmed, the PHA will require that a professional third party competent to make the assessment, provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the PHA finds that the requested accommodation creates an undue administrative or financial burden, the PHA will deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the PHA (i.e., waiving a family obligation).

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the PHA.

The PHA will provide a written decision to the person requesting the accommodation within 30 days. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the PHA's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

All PHA mailings will be made available in an accessible format upon request, as a reasonable accommodation.

Verification of Disability

The PHA will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

Applying for Admission

All persons who wish to apply for any of the PHA's programs must submit a pre-application schedule an appointment, as indicated in our public notice. Applications will be made available in an accessible format upon request from a person with a disability. Pre-application packets are available at area social agencies

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and, if requested, it will be mailed in an accessible format.

The full application is completed and signed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for accommodation is requested by a person with a disability. Applicants will then be interviewed by PHA staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time. The full application will also include questions asking all applications whether reasonable accommodations are necessary.

I. TRANSLATION OF DOCUMENTS

The Housing Authority has bilingual staff to assist non-English speaking families in the Spanish and translates documents into Spanish.

In determining whether it is feasible to provide translation of documents written in English into other languages, the PHA will consider the following factors:

Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.

The availability of local organizations to provide translation services to non English speaking families.

Availability of bi-lingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

The PHA operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the PHA is using its resources in a manner that reflects its commitment to quality and service. The PHA policies and practices are consistent with the areas of measurement for the following HUD SEMAP indicators.

Selection from the Waiting List

Reasonable Rent

Determination of Adjusted Income

Utility Allowance Schedule

HQS Quality Control Inspections

HQS Enforcement

Expanding Housing Opportunities

Payment Standards

Annual Re-examinations

Correct Tenant Rent Calculations

Pre-Contract HQS Inspections

Annual HQS Inspections

Lease-up

Family Self-Sufficiency Enrollment and Escrow Account Balances

Bonus Indicator Deconcentration

Supervisory quality control reviews will be performed by a PHA Supervisor or other qualified person other than the person who performed the work, as required by HUD, on the following SEMAP factors:

Selection from the waiting list

Rent reasonableness

Determination of adjusted income

HQS Enforcement

HQS Quality Control

The annual sample of files and records will be drawn in an unbiased manner, leaving a clear audit trail.

The minimum sample size to be reviewed will relate directly to each factor.

K. RECORDS FOR MONITORING PHA PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the PHA will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the PHA's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

In addition to the required SEMAP documentation, Information Systems Department staff audit the following functions:

Not less than 5% of reexaminations

Not less than 5% of new applications

Not less than 5% of claims processed

L. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/PHA will release family information.

The PHA's policy regarding release of information is in accordance with State and local laws which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Section 8 Manager.

The PHA's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

PHA staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information, or improper disclosure of family information by staff will result in disciplinary action.

M. FAMILY OUTREACH

The PHA will publicize and disseminate information to make known the availability of housing assistance and related services for very low income families on a regular basis. When the PHA's waiting list is open, the PHA will publicize the availability and nature of housing assistance for very low income families in a newspaper of general circulation, minority media, and by other suitable means. Notices will also be provided in Spanish.

To reach persons who cannot read the newspapers, the PHA will distribute fact sheets to the broadcasting media, and initiate personal contacts with members of the news media and community service personnel. The PHA will also utilize public service announcements.

The PHA will communicate the status of housing availability to other service providers in the community, and advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

N. OWNER OUTREACH [24 CFR 982.54(d)(5)]

The PHA makes a concerted effort to keep private owners informed of legislative changes in the tenant-based program, which are designed to make the program more attractive to owners. This includes informing participant owners of applicable legislative changes in program requirements.

The PHA encourages owners of decent, safe and sanitary housing units to lease to Section 8 families.

The PHA encourages participation by owners of suitable units located outside areas of low poverty or minority concentration.

The PHA conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

The PHA maintains a list of units available for the Section 8 Program and updates this list at least weekly. When listings from owners are received, they will be compiled by the PHA staff by bedroom size.

The PHA will maintain lists of available housing submitted by owners in all neighborhoods within the Housing Authority's jurisdiction to ensure greater mobility and housing choice to very low income households. The lists of [owners/units] will be [provided at the front desk/mailed on request] and provided at briefings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The PHA shall periodically:

Develop working relationships with owners and real estate broker associations.

Establish contact with civic, charitable or neighborhood organizations which have an interest in housing for low-income families and public agencies concerned with obtaining housing for displacements.

Explain the program, including equal opportunity requirements and nondiscrimination requirements, including Fair Housing Amendments Act of 1988 and Americans with Disabilities Act, to real estate agents, landlords, and other groups that have dealings with low-income families or are interested in housing such families.

O. VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2005 (VAWA)

The Violence against Women Reauthorization Act of 2005 (VAWA) requires PHAs to inform assisted tenants of their rights under this law, including their right to confidentiality and the limits thereof. Since VAWA provides protections for applicants as well as tenants, PHAs may elect to provide the same information to applicants. VAWA also requires PHAs to inform owners and managers of their obligations under this law.

This part describes the steps that the PHA will take to ensure that all actual and potential beneficiaries of its housing choice voucher program are notified about their rights and that owners and managers are notified of their obligations under VAWA.

PHA Policy

The PHA will make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, or stalking (see Appendix 12).

A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking (see Appendix 12-A).

A statement of the PHA's obligation to keep confidential any information that it receives from a victim unless (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Appendix 12).

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

This Chapter defines both HUD and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

A. ELIGIBILITY FACTORS [982.201(b)]

The PHA accepts applications only from families whose head or spouse is at least 18 years of age.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

The HUD eligibility criteria are:

An applicant must be a "family"

An applicant must be within the appropriate Income Limits

An applicant must furnish Social Security Numbers for all family members age six and older

An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required

At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the PHA may provide any financial assistance.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance" chapter. These reasons for denial constitute additional admission criteria.

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Eligibility factors will be verified before the family is placed on the waiting list.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher, unless the PHA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

The applicant must qualify as a Family. A Family may be a single person or a group of persons.

A “family” includes a family with or without a child or children. A group of persons consisting of two or more elderly persons or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family. The PHA determines if any other group of persons qualifies as a “family”.

A single person family may be:

- An elderly person

- A displaced person

- A person with a disability

 - Individuals may not be considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence.

- Any other single person

A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

A family also includes:

- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs and who have a history as a family unit or show evidence of a stable family relationship.

- Two or more elderly or disabled persons living together, or one or more elderly, near elderly or disabled persons living with one or more live-in aides is a family.

Head of Household

The head of household is the **adult** member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-in Attendants

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,

- Is not obligated for the support of the person(s), and

- Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

- Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

- Live-in aides are not subject to Non-Citizen Rule requirements.

- Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

Verification must include the hours the care will be provided.

[24 CFR 982.316] At any time, the PHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

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

The person commits drug-related criminal activity or violent criminal activity; or

The person 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.

Split Households Prior to Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the PHA will make the decision taking into consideration the following factors:

Which family member applied as head of household.

Which family unit retains the children or any disabled or elderly members.

Restrictions that were in place at the time the family applied.

Role of domestic violence in the split.

Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the PHA.

Multiple Families in the Same Household

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

To be eligible for assistance, an applicant must:

Have an Annual Income at the time of admission that does not exceed the very low income limits for occupancy established by HUD.

To be income eligible the applicant must be a family in the very low income category, which is a family whose income does not exceed 50 percent of the area median income. The PHA will not admit families whose income exceeds 50 percent of the area median income except those families included in 24 CFR 982.201(b).

To determine if the family is income-eligible, the PHA compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

Portability: For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither, may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations at 24 CFR 5.522. Not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past 5 years.

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.

The PHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

The family must not have violated any family obligation during a previous participation in the Section 8 program for five years prior to final eligibility determination.

The PHA may make an exception, if the family member who violated the family obligation is not a current member of the household on the application. Required proof must be acceptable to the Section 8 Manager.

The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program.

The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Section 8 program.

The PHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.

If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

G. TENANT SCREENING [24 CFR 982.307)]

The PHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

The PHA will not screen family behavior or suitability for tenancy. The PHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as:[24 CFR 982.307(a)(3)]

- Payment of rent and utility bills

- Caring for a unit and premises

- Respecting the rights of other residents to the peaceful enjoyment of their housing

- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and

- Compliance with other essential conditions of tenancy.

The PHA will give the owner:

- The family's current and prior address as shown in the PHA's records; and

- The name and address (if known by the PHA) of the landlord at the family's current and prior address.

The PHA will offer the owner other information in the PHA's possession concerning the family, including information about the family's tenancy history.

The same types of information will be supplied to all owners.

The PHA will advise families how to file a complaint if they have been discriminated against by an owner. The PHA will advise the family to make a Fair Housing complaint. The PHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status. See "Complaints and Appeals" chapter for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]

Admission to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

Where a family lives prior to admission to the program.

Where the family will live with assistance under the program.

Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.

Discrimination because a family includes children.

Whether a family decides to participate in a family self sufficiency program; or

Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.

K. PRIVACY SAFEGUARD

The Bethlehem Housing Authority will ensure that all documents are maintained confidentially. Filing cabinets will be secured at the close of each day.

Chapter 3

APPLYING FOR ADMISSION

[24 CFR 982.204]

INTRODUCTION

The policy of the PHA is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. This Chapter describes the policies and procedures for completing an initial application for assistance, placement and denial of placement on the waiting list, and limitations on who may apply. The primary purpose of the intake function is to gather information about the family, but the PHA will also utilize this process to provide information to the family so that an accurate and timely decision of eligibility can be made. Applicants will be placed on the waiting list in accordance with this plan. The method by which initial applications will be taken will be publicly advertised and will occur by one of two methods determined by the Authority as follows:

Section I **“Walk-In Applicants”**, and subsequent placement on the waiting list, or

Section II **“On-Line Applicants”**, and placement on the waiting list as determined by lottery and described in the section to follow.

SECTION I

WALK-IN APPLICATIONS

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of application taking is to permit the PHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of the PHA's programs must schedule an appointment to complete an application. Applications will be mailed to handicapped or disabled families. Pre-applications are also available at various social agencies.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

The application process will involve two phases. The first is the "initial" application for assistance. This first phase results in the family's placement on the waiting list.

The second phase is the "final determination of eligibility". The full application takes place when the family reaches the top of the waiting list. At this time the PHA ensures that verification of all

HUD and PHA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]

The PHA will utilize the following procedures for opening the waiting list:

When the PHA opens the waiting list, the PHA will advertise through public notice in the following newspapers, minority publications and media entities, location(s), and program(s) for which applications are being accepted:

The notice will contain:

The dates, times, and the locations where families may apply.

The programs for which applications will be taken.

A brief description of the program.

A statement that public housing residents must submit a separate application if they want to apply for section 8.

Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and telephone number, how to submit an application, information on eligibility requirements, and the availability of local **preferences**.

Upon request from a person with a disability, additional time will be given as an accommodation for submission of an application after the closing deadline. This accommodation is to allow persons with disabilities the opportunity to submit an application in cases when a social service organization provides inaccurate or untimely information about the closing date.

If the waiting list is open, the PHA will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

Closing the Waiting List

The PHA may stop applications if there are enough applicants to fill anticipated openings for the next 24 months. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations. The PHA will give at least 30 days' notice prior to closing the list. When the period for accepting applications is over, the PHA will add the new applicants to the list by:

Limits on Who May Apply

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

When the application is submitted to the PHA it establishes the family's date and time of application for placement order on the waiting list.

C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The PHA will utilize a pre-application form. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, the information may be completed by a staff person over the telephone. It may also be mailed to the applicant and, if requested, it will be mailed in an accessible format. Translations will be provided for non-English speaking applicants by staff in Spanish.

The purpose of the preapplication is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The preapplication will contain at least the following information:

Applicant name

Family Unit Size (number of bedrooms the family qualifies for under PHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

Annual (gross) family income

Ineligible families will not be placed on the waiting list.

Pre-applications will require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

SECTION II

ON-LINE APPLICATIONS

A. OVERVIEW OF THE APPLICATION TAKING PROCESS

The purpose of application taking is to permit the PHA to gather information and determine placement on the waiting list. The application will contain questions designed to obtain pertinent program information.

Families who wish to apply for any one of the PHA's programs must apply on-line when the PHA has deemed it necessary to "open" the waiting list for a specific period of time.

When the waiting list is open, any family asking to be placed on the waiting list for Section 8 rental assistance will be given the opportunity to complete an application.

The application process will involve two phases. The first is the "initial" application for assistance. This first phase results in the family's placement on the waiting list.

The second phase is the "final determination of eligibility". The full application takes place when the family reaches the top of the waiting list. At this time the PHA ensures that verification of all HUD and PHA eligibility factors is current in order to determine the family's eligibility for the issuance of a voucher.

B. OPENING/CLOSING OF APPLICATION TAKING [24 CFR 982.206, 982.54(d)(1)]

The PHA will utilize the following procedures for opening the waiting list:

When the PHA opens the waiting list, the PHA will advertise through public notice in the following newspapers, minority publications and media entities, location(s), and program(s) for which applications are being accepted:

The notice will contain:

The dates, times, and the locations where families may apply.

The programs for which applications will be taken.

A brief description of the program.

Limitations, if any, on who may apply.

The notices will be made in an accessible format if requested. They will provide potential applicants with information that includes the PHA address and website address, how to submit an application, information on eligibility requirements, and the availability of local preferences.

Since application will be taken “on-line” only, and subsequent waiting list placement by lottery (to be described in Section D. below), social service organizations will be utilized to accommodate the needs of persons with disabilities. In addition, to provide specific accommodation to persons with disabilities, a “help desk” consisting of a list of social agencies and associated phone numbers will be utilized to assist those with disabilities to complete an application.

If the waiting list is open, the PHA will accept applications from eligible families unless there is good cause for not accepting the application, such as denial of assistance because of action or inaction by members of the family for the grounds stated in the "Denial or Termination of Assistance" chapter of this Administrative Plan. [24 CFR 982.206(b)(2)]

Closing the Waiting List

The PHA will publicly advertise the opening and closing dates of the waiting list. The waiting list may not be closed if it would have a discriminatory effect inconsistent with applicable civil rights laws.

The PHA will announce the closing of the waiting list by public notice.

The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations. The PHA will give public notice of the date and time that the list will be closed. When the period for accepting applications is over, the PHA will add the new applicants to the list by lottery and all selected applicants will be notified via the PHA website.

Limits on Who May Apply

When the waiting list is open, any family asking completing the on-line application will be placed on the waiting list for Section 8 rental assistance and will have been given the opportunity to complete an application.

When the application is submitted to the PHA a random lottery establishes the family's date and time of application for placement order on the waiting list.

C. "INITIAL" APPLICATION PROCEDURES [24 CFR 982.204(b)]

The PHA will utilize an “on-line” pre-application form. The information is to be filled out by the applicant whenever possible. To provide specific accommodation for persons with disabilities, a “help desk” consisting of a list of social agencies and associated phone numbers will be utilized to assist those with disabilities to complete an application. Translation of the on-line application will be provided at the designated website for all Spanish speaking applicants. Those with limited English proficiency, other than Spanish, may contact the PHA for assistance.

The purpose of the pre-application is to permit the PHA to preliminarily assess family eligibility or ineligibility and to determine placement on the waiting list. The pre-application will contain at least the following information:

Applicant name

Family Unit Size (number of bedrooms the family qualifies for under PHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

Annual (gross) family income

Ineligible families will not be placed on the waiting list.

Pre-applications will require an interview. The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

D. ON-LINE APPLICATIONS, AND LOTTERY PLACEMENT ON WAITING LIST

Each applicant Head of Household receives only one entry in the lottery, so if someone submits more than one application, only the last one entered will be accepted, earlier submissions will be omitted from the lottery.

All applications included in the lottery, are assigned a lottery rank, randomly by computer.

An automated “black box” computer program will be utilized that does both the duplicate checking and the assigning of ranks, so the lottery results are generated without human intervention, even by PHA staff, or vendor supported employees.

The PHA will choose X number of applicants to take from the lottery. These will have the highest ranks, ranked # 1 through X. The computer company delivers the data for these applicants to the PHA for placement on our waiting list.

The ranking order on our waiting list is also set by the lottery rank. However, any preferences used by the PHA will cause preference holders to move higher on the list.

The PHA will announce lottery “winners” by posting on the Housing Authority’s website the confirmation numbers of those selected in the lottery. These are the same confirmation numbers the applicant’s receive on their receipt at the time of submission, and are unique per application.

SECTION III

A. APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.204]

Applicants are required to inform the PHA of changes in address with proof of new residency. Applicants are also required to respond to requests from the PHA to update information on their application and to determine their interest in assistance.

If after a review of the preapplication the family is determined to be preliminarily eligible, they will be notified in writing or in an accessible format upon request, as a reasonable accommodation.

If the family is determined to be ineligible based on the information provided in the preapplication, the PHA will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See "Complaints and Appeals "chapter.

B. TIME OF SELECTION [24 CFR 982.204]

When funding is available, families will be selected from the waiting list in their determined sequence, regardless of family size, subject to income targeting requirements.

When there is insufficient funding available for the family at the top of the list, the PHA will not admit any other applicant until funding is available for the first applicant.

C. COMPLETION OF A FULL APPLICATION

All preferences claimed on the preapplication or while the family is on the waiting list will be verified upon receipt of the preliminary application and prior to placement on the waiting list

The qualification for preference must exist at the time the preference is claimed and at the time of verification, because claim of a preference determines placement on the waiting list.

After the preference is verified, when the PHA is ready to select applicants, applicants will be required to participate in a full application interview with a PHA representative during which the applicant will be required to furnish complete and accurate information verbally as requested by the interviewer. The PHA interviewer will complete the full application form with answers supplied by the applicant. The applicant will sign and certify that all information is complete and accurate.

The full application will be completed when the applicant attends the interview.

Requirement to Attend Interview

The PHA utilizes the full application interview to discuss the family's circumstances in greater detail, to clarify information which has been provided by the family, and to ensure that the information is complete. The interview is also used as a vehicle to meet the informational needs of the family by providing information about the application and verification process, as well as to advise the family of other PHA services or programs which may be available.

The head and spouse are both required to attend the interview.

If the head of household cannot attend the interview, the spouse may attend to complete the application and certify for the family. The head of household, however, will be required to attend an interview within 15 days to review the information and to certify by signature that all of the information is complete and accurate.

It is the applicant's responsibility to reschedule the interview if s/he misses the appointment. If the applicant does not reschedule or misses two scheduled meetings, the PHA will reject the application.

Applicants who fail to appear and want to reschedule a missed appointment must make the request to reschedule no later than 10 days from the original appointment date.

If an applicant fails to appear for their interview without prior approval of the PHA, their application will be denied unless they can provide acceptable documentation to the PHA that an emergency prevented them from calling.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to participate in the interview process, but only with permission of the person with a disability.

If an application is denied due to failure to attend the full application interview, the applicant will be notified in writing and offered an opportunity to request an informal review. (See "Complaints and Appeals "chapter.)

All adult members must sign the HUD Form 9886, Release of Information, and all supplemental forms required by the PHA, the declarations and consents related to citizenship/immigration status and any other documents required by the PHA. Applicants will be required to sign specific verification forms for information which is not covered by the HUD form 9886. Failure to do so will be cause for denial of the application for failure to provide necessary certifications and release as required by the PHA.

Every adult household member must sign a consent form to release criminal conviction records and to allow PHAs to receive records and use them in accordance with HUD regulations.

If the PHA determines at or after the interview that additional information or document(s) are needed, the PHA will request the document(s) or information in writing. The family will be given 30 days to supply the information.

If the information is not supplied in this time period, the PHA will provide the family a notification of denial for assistance. (See "Complaints and Appeals" chapter)

D. VERIFICATION [24 CFR 982.201(e)]

Information provided by the applicant will be verified, using the verification procedures in the "Verification Procedures" chapter. Family composition, income, allowances and deductions, assets, full-time student status, eligibility and rent calculation factors, and other pertinent information will be verified. Verifications may not be more than 60 days old at the time of issuance of the Voucher.

E. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY
[24 CFR 982.201]

After the verification process is completed, the PHA will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the PHA, and the current eligibility criteria in effect. If the family is determined to be eligible, the PHA will mail a notification of eligibility. A briefing will be scheduled for the issuance of a voucher and the family's orientation to the housing program.

Chapter 4

ESTABLISHING PREFERENCES AND MAINTAINING THE WAITING LIST

[24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

INTRODUCTION

It is the PHA's objective to ensure that families are placed in the proper order on the waiting list and selected from the waiting list for admissions in accordance with the policies in this Administrative Plan.

By maintaining an accurate waiting list, the PHA will be able to perform the activities which ensure that an adequate pool of qualified applicants will be available so that program funds are used in a timely manner.

A. WAITING LIST [24 CFR 982.204]

The PHA uses a single waiting list for admission to its Section 8 tenant-based assistance program.

Except for Special Admissions, applicants will be selected from the PHA waiting list in accordance with policies and preferences and income targeting requirements defined in this Administrative Plan.

The PHA will maintain information that permits proper selection from the waiting list.

The waiting list contains the following information for each applicant listed:

Applicant name

Family unit size (number of bedrooms family qualifies for under PHA subsidy standards)

Date and time of application

Qualification for any local preference

Racial or ethnic designation of the head of household

Annual (gross) family income

Number of persons in family

B. SPECIAL ADMISSIONS [24 CFR 982.54(d)(e), 982.203]

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The PHA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;

- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;

- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

Applicants who are admitted under Special Admissions, rather than from the waiting list are not maintained on separate lists].

C. LOCAL PREFERENCES [24 CFR 982.207]

The PHA will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the waiting list.

The PHA uses the following local preference system:

- Date and time of receipt of a completed application.

- Residency preference for families who live, work, or have been hired to work or who are attending school in the jurisdiction.

- Disability preference: This preference is extended to disabled persons or families with a disabled member as defined in this plan. Proof of disability will be required at time of selection. HUD regulations prohibit admission preferences for specific types of disabilities.

Treatment of Single Applicants

Single applicants will be treated as any other eligible family on the waiting list.

D. INCOME TARGETING

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year the PHA will reserve a minimum of seventy-five percent of its Section 8 new admissions for families whose income does not exceed 30 percent of the area median income. HUD refers to these families as “extremely low-income families.” The PHA will admit families who qualify under the Extremely Low Income limit to meet the income targeting requirement, regardless of preference.

The PHA’s income targeting requirement does not apply to low income families continuously assisted as provided for under the 1937 Housing Act.

The PHA is also exempted from this requirement where the PHA is providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

E. EXCEPTIONS FOR SPECIAL ADMISSIONS [24 CFR 982.203, 982.54(d)(3)]

If HUD awards a PHA program funding that is targeted for specifically named families, the PHA will admit these families under a Special Admission procedure.

Special admissions families will be admitted outside of the regular waiting list process. They do not have to qualify for any preferences, nor are they required to be on the program waiting list. The PHA maintains separate records of these admissions.

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit:

- A family displaced because of demolition or disposition of a public or Indian housing project;

- A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;

- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and

- A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

F. TARGETED FUNDING [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are placed on the regular waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria.

Applicants who are admitted under targeted funding which are not identified as a Special Admission would be identified by codes in the automated system. At present, the PHA has no "Targeted" Programs:

G. PREFERENCE AND INCOME TARGETING ELIGIBILITY [24 CFR 982.207]

Change in Circumstances

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify the PHA in writing when their circumstances change.

When an applicant claims an additional preference, s/he will be placed on the waiting list in the appropriate order determined by the newly-claimed preference.

If the family's verified annual income, at final eligibility determination, does not fall under the Extremely Low Income limit and the family was selected for income targeting purposes before family(ies) with a higher preference, the family will be returned to the waiting list.

Cross-Listing of Different Housing Programs and Section 8 [24 CFR 982.205(a)]

If the waiting list for the PHA's public housing program, project-based voucher program or any other program is open at the time an applicant applies for assistance, the PHA will offer to place the family on its waiting lists for the other programs if they are accepting applications.

H. ORDER OF SELECTION [24 CFR 982.207(e)]

The PHA's method for selecting applicants from a preference category leaves a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

Local Preferences (Updated eff. 10/05)

The PHA has selected the following system to apply local preferences:

Local preferences will be numerically ranked, with number 0 (zero) being the highest preference, in the following order:

PRIORITY CODE #0: Hurricane Katrina or other Federally Declared Disaster Survivors.

PRIORITY CODE #1: MUST LIVE OR WORK IN BETHLEHEM COMMUNITY

Single Person who is elderly (62 or over)

Single person who is handicapped or disabled

Family whose head or spouse is elderly

Single handicapped/disabled persons who receive limited assistance working with The County Human Services and their agencies (as per agreement with BHA Executive Director)

Family whose head or spouse is handicapped or disabled

PRIORITY CODE #2: MUST LIVE OR WORK IN BETHLEHEM COMMUNITY

Single Person who is Near Elderly (55-61 years of age)

Families not qualifying for Priority #1

PRIORITY CODE #3: Everyone living and working out of the area

Any person/family participating in a rental assistance program;

Single Persons under age 55, even if living or working in Bethlehem community

PRIORITY CODE #4: Single Persons under age 55, not disabled or handicapped

Among Applicants with Equal Preference Status

Among applicants with equal preference status, the waiting list will be organized by date and time.

I. PREFERENCE DENIAL [24 CFR 982.207]

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

J. REMOVAL FROM WAITING LIST AND PURGING [24 CFR 982.204(c)]

The Waiting List will be purged approximately every 2 years by a mailing to all applicants to ensure that the waiting list is current and accurate. The mailing will ask for confirmation of continued interest.

Any mailings to the applicant which require a response will state that failure to respond within 10 days will result in the applicant's name being dropped from the waiting list.

An extension of 30 days to respond will be granted, if requested and needed as a reasonable accommodation for a person with a disability.

If the applicant did not respond to the PHA request for information or updates because of a family member's disability, the PHA will reinstate the applicant in the family's former position on the waiting list.

If a letter is returned by the Post Office without a forwarding address, the applicant will be removed without further notice, and the envelope and letter will be maintained in the file.

If a letter is returned with a forwarding address, it will be re-mailed to the address indicated.

If an applicant is removed from the waiting list for failure to respond, they will not be entitled to reinstatement unless Section 8 Manager determines there were circumstances beyond the person's control.

The PHA allows a grace period of 10 days after completion of the purge. Applicants who respond during this grace period will be reinstated.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.54(d)(9)]

INTRODUCTION

HUD guidelines require that PHA's establish subsidy standards for the determination of family unit size, and that such standards provide for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the unit size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards. This Chapter explains the subsidy standards which will be used to determine the voucher size (family unit size) for various sized families when they are selected from the waiting list, as well as the PHA's procedures when a family's size changes, or a family selects a unit size that is different from the Voucher.

A. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

The PHA does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the Voucher. The PHA's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

For subsidy standards, an adult is a person 18 years old or older.

All standards in this section relate to the number of bedrooms on the Voucher, not the family's actual living arrangements.

The unit size on the Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

One bedroom will be generally be assigned for each two family members. The PHA will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons, a reasonable accommodation due to a disability and the presence of a live-in aide.

Generally, the PHA assigns one bedroom to two people within the following guidelines:

Persons of different generations, persons of the opposite sex (other than spouses), and unrelated adults should be allocated a separate bedroom.

Separate bedrooms should be allocated for persons of the opposite sex (other than adults who have a spousal relationship and children under 2).

Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.

Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family.

Space may be provided for a child who is away at school but who lives with the family during school recesses.

Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

Adults of different generations will have separate bedrooms.

A single pregnant woman with no other family members must be treated as a two-person family.

Single person families shall be allocated one bedroom.

Child Custody: When making a determination as to the family's eligibility, a child who lives less than nine months of the year with the leaseholder or is not in full custody (both legal and physical) of the leaseholder, will not be counted as a family member. (A child who is temporarily away from the household will be included as a family member.)

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size	Persons in Household	
	Minimum Number	Maximum Number
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	5	10
6 Bedrooms	6	12

NOTE: The City of Bethlehem building codes and ordinances will be followed regarding space required for one or more persons sharing a bedroom. Bedroom size/space must also comply with Section 8 Housing Quality Standards, and BOCA National Existing Structure code.

B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.403(a) & (b)]

The PHA shall grant exceptions from the subsidy standards if the family requests and the PHA determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

The PHA will grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need, such as a:

Verified medical or health reason; or

Elderly persons or persons with disabilities who may require a live-in attendant.

An inspection will be conducted to verify that the special use need has been met within 60 days of lease up. If the special use need has not been verified by a physical inspection by a PHA representative, the subsidy shall revert to the smaller size unit and rent and utility allowances will be adjusted accordingly. Subsidy will not be retroactive upon criteria being met after the 60 day time limit.

Request for Exceptions to Subsidy Standards

The family may request a larger sized voucher than indicated by the PHA's subsidy standards. Such request must be made in writing within 10 days of the PHA's determination of bedroom size. The request must explain the need or justification for a larger bedroom. Documentation verifying the need or justification will be required as appropriate.

The PHA will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health related reasons must be verified by a doctor or medical professional.

In accordance with Bill 504/ADA (American Disabilities Act), disabled persons are permitted service animals. A pet deposit will not apply to a service animal. Proof of disability and why a service animal is needed must be provided by a medical person. Proper licensing and inoculation are required on an annual basis and must conform with local ordinances.

PHA Error

If the PHA errs in the bedroom size designation, the family will be issued a Voucher of the appropriate size.

Changes for Applicants

The voucher size is determined prior to the briefing by comparing the family composition to the PHA subsidy standards. If an applicant requires a change in the voucher size, based on the requirements of the PHA subsidy standards, the above-referenced guidelines will apply.

Changes for Participants

The members of the family residing in the unit must be approved by the PHA. The family must obtain approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the PHA within 10 days. The above referenced guidelines will apply.

Underhoused Families

If a unit does not meet HQS space standards due to an increase in family size, (unit too small), the PHA will issue a new voucher of the appropriate size and assist the family in locating a suitable unit.

The PHA will also notify the family of the circumstances under which an exception will be granted, such as:

If a family with a disability is underhoused in an accessible unit.

If a family requires the additional bedroom because of a health problem which has been verified by the PHA.

C. UNIT SIZE SELECTED [24 CFR 982.402(c)]

The family may select a different size dwelling unit than that listed on the Voucher. There are three criteria to consider:

Subsidy Limitation: The family unit size as determined for a family under the PHA subsidy standard for a family assisted in the voucher program is based on the PHA's adopted payment standards. The payment standard for a family shall be the *lower of*:

The payment standard amount for the family unit size; or

The payment standard amount for the unit size rented by the family.

Utility Allowance: The utility allowance used to calculate the gross rent is based on the actual size of the unit the family selects, regardless of the size authorized on the family's Voucher.

Housing Quality Standards: The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

***HQS GUIDELINES FOR UNIT SIZE SELECTED**

Unit Size	Maximum Number in Household
0 Bedroom	1
1 Bedroom	2
2 Bedrooms	4
3 Bedrooms	6
4 Bedrooms	8
5 Bedrooms	10
6 Bedrooms	12

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 PHA 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 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 PHA policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and PHA 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.

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 annual reexamination effective date; and

(3) Which are not specifically excluded in paragraph [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.

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.

Summary of Income Included and Excluded by Person	
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 cohead 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 cohead)	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 PHA must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the PHA must count the income of the spouse or the head of the household if that person is temporarily absent, even if that person is not on the lease.

“Temporarily absent” is defined as away from the unit for more than 30 days. [HCV GB, p. 5-18].

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The PHA will evaluate absences from the unit using this policy.

Absent Full-Time Students

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 the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Court-Ordered Absences

If a member of the family is subject to a court order that restricts the member from the home, the PHA will determine whether the person will be considered temporarily or permanently absent. If the court order specifies a permanent restriction or if the court restriction exceeds 180 days, the person will no longer be considered a family member. If the individual intends to return to the unit at the end of the restriction, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

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].

If the family includes a child or children temporarily absent from the home due to placement in foster care, the PHA will determine from the appropriate agency when the child/ren will be returned to the home.

If the time period is to be greater than 2 months from the date of removal of the child/ren, the Voucher size will be reduced. If all children are removed from the home permanently, the Voucher size will be reduced in accordance with the PHA's subsidy standards.

Absences Due to Incarceration

If a sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 days.

If the individual intends to return to the unit following incarceration, the individual is subject to the eligibility and screening requirements discussed in Chapter 3 of this plan.

The PHA will determine if the reason for incarceration is for drug-related or violent criminal activity.

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].

The PHA 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 cohead qualifies as an elderly person or a person with disabilities.

Absence of the Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the PHA will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

Families are required both to notify the PHA before they move out of a unit and to give the PHA information about any family absence from the unit.

Families must notify the PHA at least 15 days before leaving the unit if they are going to be absent from the unit for more than 30 consecutive days.

If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the PHA will not continue the assistance payments.

HUD regulations require the PHA to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive calendar days.

“Absence” means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, the PHA may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office

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

If the absence which resulted in termination of assistance was due to a person's disability, and the PHA can verify that the person was unable to notify the PHA in accordance with the family's responsibilities, and if funding is available, the PHA may reinstate the family as an accommodation if required by the family, as long as the period was within 60 days.

Joint Custody of Children

In the case of joint custody, only one family may claim a child as a dependent. When two assisted families could conceivably claim the child, the two families must resolve the issue and declare which household will receive the dependent deduction. If the two households are unable to resolve the issue, the PHA will make the determination on the basis of such factors as who claimed the child as a dependent on the most recent income tax filing and how much time the child spends in each household.

Caretakers for a Child

If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the PHA 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 the PHA 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.

Visitors

Any adult not included on the HUD 50058 who has been in the unit more than 14 consecutive days without PHA approval will be considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address will be considered verification that the visitor is a member of the household. P.O. Box numbers are not acceptable.

Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the household and the PHA will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 90 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 90 days per year, the minor will be considered to be an eligible visitor and not a family member.

Reporting Additions to Owner and PHA

Reporting changes in household composition to the PHA is both a HUD and PHA requirement.

The family obligations require the family to request PHA approval to add any other family member as an occupant of the unit and to inform the PHA of the birth, adoption or court-awarded custody of a child. The family must request prior approval of additional household members in writing. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior approval from the PHA, any person the family has permitted to move in will be considered an unauthorized household member. Additional written approval must be received from the landlord.

Families are required to report any additions to the household in writing to the PHA within 10 days of the move-in date.

An interim reexamination will be conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption or court-awarded custody.

New adult family members will undergo "Addition to Household" screening procedures including, but not limited to a credit report and police and/or FBI criminal history check.

Reporting Absences to the PHA

Reporting changes in household composition is both a HUD and a PHA requirement.

If a family member leaves the household, the family must report this change to the PHA, in writing, within 10 days of the change and certify as to whether the member is temporarily absent or permanently absent.

Proof of residency must be provided for the family member(s) leaving the household. P.O Box numbers are not acceptable addresses.

The PHA will conduct an interim evaluation for changes which affect the Total Tenant Payment (TTP) in accordance with the interim policy.

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 annual reexamination 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)]
- The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]

When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA 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. Anytime 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 the PHA to show why the historic pattern does not represent the family's anticipated income.

Known Changes in Income

If the PHA 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 \$6/hour will begin to receive \$6.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA would calculate annual income as follows:
 $(\$6/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$6.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

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 the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy in Chapter 10 does not require interim reexaminations for other types of changes.

Using Up-Front Income Verification (UIV) to Project Income

HUD strongly recommends the use of up-front income verification (UIV). UIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [VG, p. 7].

HUD allows PHAs to use UIV information in conjunction with family-provided documents to anticipate income [UIV].

PHA procedures for anticipating annual income will include the use of UIV methods approved by HUD in conjunction with family-provided documents dated within the last 60 days of the PHA interview date.

The PHA will follow “HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available” in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines *substantial difference* as a difference of \$200 or more per month.

No Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by less than \$200 per month, the PHA will follow these guidelines:

If the UIV figure is less than the family’s figure, the PHA will use the family’s information.

If the UIV figure is more than the family’s figure, the PHA will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the PHA will use the family-provided information.

Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by \$200 or more per month, the PHA will follow these guidelines:

The PHA will request written third-party verification from the discrepant income source in accordance with 24 CFR 5.236(b)(3)(i).

When the PHA cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the PHA will review historical income data for patterns of employment, paid benefits, and receipt of other income.

The PHA will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

The PHA will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

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)].

For persons who regularly receive bonuses or commissions, the PHA will verify and then average amounts received for the two years preceding admission or reexamination. If only a one-year history is available, the PHA will use the prior year amounts. In either case the family may provide, and the PHA 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, the PHA will count only the amount estimated by the employer.

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)]. 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. Such income is not counted.

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*.)

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 cohead) 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)
- Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b))
- 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)

Resident Service Stipend: Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time [24 CFR 5.600(c)(8)(iv)].

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)].

The PHA 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 to 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].

The PHA 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, the PHA 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 the PHA'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.

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.

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

[24 CFR 5.617]

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 "prior income."

The PHA defines *prior income*, or *pre-qualifying income*, as the family member's last certified income prior to qualifying for the EID.

The family member's prior, or pre-qualifying income remains constant throughout the period that he or she is receiving the EID.

Initial 12-Month Exclusion: During the initial 12-month exclusion period, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded. The 12 months are cumulative and need not be consecutive.

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 and Phase-In: During the second 12-month exclusion period, the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings. The 12 months are cumulative and need not be consecutive.

Lifetime Limitation: The EID has a four-year (48-month) lifetime maximum. The four-year eligibility period begins at the same time that the initial exclusion period begins and ends 48 months later. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance, or if there are breaks in assistance.

During the 48-month eligibility period, the PHA will schedule and conduct an interim reexamination each time there is a change in the family member's annual income that affects or is affected by the EID (e.g., when the family member's income falls to a level at or below his/her prequalifying income, when one of the exclusion periods ends, and at the end of the lifetime maximum eligibility period).

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].

To determine business expenses that may be deducted from gross income, the PHA 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.

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.

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means the PHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

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.

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, the PHA 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

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.

6-I.G. ASSETS [24 CFR 5.609(b)(3) and 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 "interest, dividends, and other net income of any kind from real or personal property" [24 CFR 5.609(b)(3)]. This section discusses how the income

from various types of assets is determined. For most types of assets, the PHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

- How the value of the asset will be determined
- How income from the asset will be calculated

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 CFR 5.609(b)(3)], and Exhibit 6-4 provides the regulatory definition of *net family assets* as well as a chart from the *HCV Guidebook* that summarizes asset inclusions and exclusions. This 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.

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) the 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 tenant.

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 the PHA 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 (e.g., the amount a buyer would pay for real estate or the balance in an investment account).
- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash. Examples of acceptable costs include 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)]

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 the current HUD-established passbook savings rate.

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 plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement fund.

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."

If an asset is owned by more than one person and any family member has unrestricted access to the asset, the PHA 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, the PHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, the PHA 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.

Minimum Threshold

The *HVC 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].

The PHA 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 recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable 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 tenant receives important consideration not measurable in dollar terms.

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

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. The PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

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.

In determining the value of a checking account, the PHA will use the average monthly balance for the last six months.

In determining the value of a savings account, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account, the PHA 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.

In determining the market value of an investment account, the PHA 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), the PHA 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].

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)]
- 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]

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.

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 the PHA 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, the PHA 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. 5-26], 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].

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].

In determining the value of personal property held as an investment, the PHA will use the family's estimate of the value. However, the PHA also may obtain an appraisal if appropriate to confirm the value of the asset. 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 items of personal property are not considered assets [24 CFR 5.603(b)].

Necessary personal property consists of items such as clothing, furniture, household furnishings, jewelry that is not held as an investment, and vehicles, including those specially equipped for persons with disabilities.

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 amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

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, 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 [CFR 5.609(b)(4)].

When a delayed-start payment is received and reported during the period in which the PHA is processing an annual reexamination, the PHA will adjust the family share and PHA 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 the PHA.

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)]

The PHA 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.J.) [24 CFR 5.609(b)(4)].

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.)

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 inform the PHA when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

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 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)].

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.

The PHA will count court-awarded amounts for alimony and child support unless the PHA 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)].

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.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the PHA. For contributions that may vary from month to month (e.g., utility payments), the PHA will include an average amount based upon past history.

6-I.L. 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)]
- The full amount of student financial assistance paid directly to the student or to the educational institution [24 CFR 5.609(c)(6)]
- 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)]. 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) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))

- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)) (Effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931).)
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (h) 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)
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under the federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu)
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (k) 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*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (m) The value of any child care 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)
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (o) 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)
- (p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805)
- (r) 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)
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931)

PART II: ADJUSTED INCOME

6-II.A. INTRODUCTION

Overview

HUD regulations require PHAs 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 [PHA] 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 child care 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

Generally, the PHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the PHA will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the PHA 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. The PHA may require the family to provide documentation of payments made in the preceding year.

6-II.B. DEPENDENT DEDUCTION

A deduction of \$480 is taken 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)].

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].

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 cohead 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.”

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used to determine the costs that qualify as medical expenses.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Substance abuse treatment programs
Surgery and medical procedures that are necessary, legal, noncosmetic	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 wheel chair, handrails)	

	Medical insurance premiums or the cost of a health maintenance organization (HMO)
<p>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.</p>	

Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head, spouse, or cohead 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, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

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.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the PHA 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 the PHA 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 to work” [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

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.

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, the PHA 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.

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.

The PHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the PHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA 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

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, the PHA will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

6-II.F. CHILD CARE EXPENSE DEDUCTION

HUD defines *child care 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 child care. In the case of child care 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

Child care 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].

For the purposes of child care expenses, the PHA defines *child* to include any foster children under the age of 13 living in an assisted family's household [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

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 child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the PHA 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

If the child care 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 child care expense being allowed by the PHA.

Furthering Education

If the child care 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 child care claimed.

Being Gainfully Employed

If the child care 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 child care 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 child care – although the care must still be necessary and reasonable. However, when child care 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, child care 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, child care expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of child care. 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].

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 child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

Allowable Child Care Activities

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, child care expenses paid to a family member who lives in the family's unit are **not** eligible; however, payments for child care to relatives who do not live in the unit are eligible.

Necessary and Reasonable Costs

Child care 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 child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For the 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 child care costs, the PHA will use the schedule of child care costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

PART III: CALCULATING FAMILY SHARE AND PHA 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)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the PHA

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]

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

The minimum rent for this locality is \$50.

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 tenant-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 6-III.C.)

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)]

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.

The PHA will make utility reimbursements to the family.

6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

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.

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.

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 tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.

- (4) A death has occurred in the family.

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 or the loss of the family member's income).

- (5) The family has experienced other circumstances determined by the PHA.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary (expected to last 90 days or less) or long-term.

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.

Example: Impact of Minimum Rent Exemption	
Assume the PHA has established a minimum rent of \$35.	
Family Share – No Hardship	Family Share – With Hardship
\$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
\$35 Minimum rent	\$35 Minimum rent
Minimum rent applies. TTP = \$35	Hardship exemption granted. TTP = \$15

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.

The PHA 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.

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 13 of this plan.

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.

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 13 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.

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, 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.

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 15.

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 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.

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 annual reexamination [HCV GB, p. 7-8].

Changes in Family Unit 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 within the basic range.

6-III.D. UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, and (2) other tenant-paid housing services such as trash collection. Costs for telephone, cable/satellite TV, and Internet services are not included in the utility allowance schedule.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 16 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules. Allowances are not based on individual family's actual energy consumption.

The PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on the PHA's subsidy standards.

The PHA must classify utilities in the utility allowance schedule according to the following general categories: space heating, cooking, water heating, water, sewer, trash collection; other electric and other specified services.

The approved utility allowance schedule is given to families along with their Voucher. The utility allowance is based on the actual unit size selected.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], the PHA will provide a utility reimbursement payment for the family each month. The check will be made out directly to the tenant or directly to the utility company. The PHA will notify the family of the amount paid to the utility supplier.

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.

The PHA 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 the PHA will apply this allowance to a family's rent and subsidy calculations.

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.

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

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.

Revised utility allowances will be applied to a family's rent and subsidy calculations at the next annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].

-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 PHA subsidy for a family is calculated at \$500 and two of four family members are ineligible, the PHA subsidy would be reduced to \$250.

EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

24 CFR 5.609

(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 annual reexamination effective date; and
- (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

(b) Annual income includes, but is not limited to:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) 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;

(3) Interest, dividends, and other net income of any kind from real or personal property.

Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);

(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31¹; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

HHS DEFINITION OF "ASSISTANCE"

45 CFR: GENERAL TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

260.31 What does the term "assistance" mean?

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and child care provided to families who are not employed.

(b) [The definition of "assistance"] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

¹ Text of 45 CFR 260.31 follows.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

24 CFR 5.609

(c) Annual income does not include the following:

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
- (ii) 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);
- (iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (iv) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time;
- (v) Incremental earnings and benefits resulting to any family member 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. 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 employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) 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;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) 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; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See the following chart for a list of benefits that qualify for this exclusion.]

Sources of Income Excluded by Federal Statute from Consideration as Income for Purposes of Determining Eligibility or Benefits
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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) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);

c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552(b)); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. 2931);

g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub.L- 94-540, 90 Stat. 2503-04);

h) The first \$2000 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 \$2000 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);

i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));

k) 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-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

m) The value of any child care 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);

n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

o) 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);

p) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);

r) 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); and

s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) 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.

(2) 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 Sec. 5.609.

(3) 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 therefor. 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.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES

24 CFR 5.617 Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.

(a) Applicable programs. The disallowance of increase in annual income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

(b) Definitions. The following definitions apply for purposes of this section.

Disallowance. Exclusion from annual income.

Previously unemployed includes a person with disabilities who has earned, in the twelve 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.

Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) 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;

(2) 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

(3) 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.

(c) Disallowance of increase in annual income—

(1) Initial twelve month exclusion. During the cumulative twelve month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) Second twelve month exclusion and phase-in. During the second cumulative twelve month period after the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income of a qualified family fifty percent of any increase in income of such family member as a result of employment over income of that family member prior to the beginning of such employment.

(3) Maximum four year disallowance. The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) is limited to a lifetime 48 month period. The disallowance only applies for a maximum of twelve months for disallowance under paragraph (c)(1) and a maximum of twelve months for disallowance under paragraph (c)(2), during the 48 month period starting from the initial exclusion under paragraph (c)(1) of this section.

(d) Inapplicability to admission. The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).

EXHIBIT 6-5: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 CFR 5.615

Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

(a) Applicability. This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

(b) Definitions. The following definitions apply for purposes of this section:

Covered families. Families 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.

Economic self-sufficiency program. See definition at Sec. 5.603.

Imputed welfare income. The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

Specified welfare benefit reduction.

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) "Specified welfare benefit reduction" does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

(c) Imputed welfare income.

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

(d) Review of PHA decision.

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the

basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

(e) PHA relation with welfare agency.

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

CHAPTER 7

VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]

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 PIH Notice 2004-01 Verification Guidance and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts 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 the PHA.

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.

7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS

HUD's Verification Hierarchy

HUD authorizes the PHA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification. In order of priority, the forms of verification that may be used are:

- Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Certification/Self-Declaration

Each of the verification methods is discussed in subsequent sections below. Exhibit 7-1 at the end of the chapter contains an excerpt from the notice that provides guidance with respect to how each method may be used.

Requirements for Acceptable Documents

Any documents used for verification must be the original (not photocopies) and generally must be dated within 60 calendar days of the date they are provided to the PHA. The documents must not be damaged, altered or in any way illegible.

The PHA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the PHA would accept the most recent report.

Print-outs from web pages are considered original documents.

The PHA staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed in the presence of a PHA representative or PHA notary public.

File Documentation

The 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.

7-I.C. UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to the 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.

The PHA must restrict access to and safeguard UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family 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.

Definition of Substantial Difference

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference. The PHA will therefore use \$200 per month as the threshold for a substantial difference.

See Chapter 6 for the PHA's policy on the use of UIV to project annual income and for the PHA's threshold for substantial difference.

When No Substantial Difference Exists

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

When a Substantial Difference Exists

When there is a substantial difference between the information provided by the UIV source and the family, the PHA must request another form of third-party written verification and use any other verification methods (in priority order) to reconcile the difference(s).

7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION

Reasonable Effort and Timing

Unless third-party verification is not required as described below, HUD requires the PHA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15].

The PHA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

The PHA may mail, fax, e-mail, or hand deliver third-party written verification requests and will accept third-party responses using any of these methods. The PHA 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 been received by the 11th business day, the PHA will request third-party oral verification.

Third party written verification forms **will not** be hand carried by the family under any circumstances.

The PHA 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. Regarding 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 the PHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, the PHA will wait no more than 5 business days for the information to be provided. If the information is not provided by the 6th business day, the PHA will use any information provided orally in combination with reviewing family-provided documents (see below).

When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, the PHA will use the information from documents on a provisional basis. If the PHA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, the PHA will conduct an interim reexamination to adjust the figures used for the reexamination, regardless of the PHA's interim reexamination policy.

When Third-Party Verification is Not Required

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.

Certain Assets and Expenses

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

The PHA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification [VG, p. 15].

The PHA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$500 annually *and* the family has original documents that support the declared amount.

Certain Income, Asset and Expense Sources

The PHA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification [VG, p. 15]. For example, the PHA will rely upon review of documents when the PHA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be where the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

The PHA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, the PHA 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].

7-I.E. REVIEW OF DOCUMENTS

Using Review of Documents as Verification

If the PHA has determined that third-party verification is not available or not required, the PHA will use documents provided by the family as verification.

The PHA may also review documents when necessary to help clarify information provided by third parties. In such cases the PHA will document in the file how the PHA arrived at a final conclusion about the income or expense to include in its calculations.

All documents will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

The PHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs (at least 6 minimum)

- Computer print-outs from the employer

- Signed letters (provided that the information is confirmed by telephone)

- Other documents noted in this Chapter as acceptable verification.

The PHA will accept faxed documents from the income source provider.

The PHA will accept photocopies from the income source provider.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third party verification.

The PHA will not delay in processing of an application beyond 30 days because a third party information provider does not return the verification in a timely manner.

7-I.F. SELF-CERTIFICATION

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 the PHA.

- The PHA 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 the PHA 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 a PHA representative or PHA notary public.

PART II. VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

The PHA 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 Vehicle identification card U.S. military discharge (DD 214) U.S. passport Employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID 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 the PHA'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 the PHA and be signed in the presence of a PHA representative or PHA notary public.

Legal identity will be verified on an as needed basis.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and HCV GB, p. 5-12]

For every family member age 6 or older, the family must provide documentation of a valid social security number (SSN), or a self-certification stating that no SSN has been issued. The self-certification must be executed personally by any family member 18 or older, or by a parent or guardian for a minor.

The PHA will also accept the following documents as evidence if the SSN is provided on the document:

Driver's license

Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union

Earnings statements or payroll stubs

An identification card issued by an employer or trade union.

Bank Statements

IRS Form 1099

Benefit award letters from government agencies; retirement benefit letters; life insurance policies

Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

Verification of benefits or social security number from Social Security Administration

If the family reports an SSN but cannot provide acceptable documentation of the number, the PHA will require a self-certification stating that documentation of the SSN cannot be provided at this time. The PHA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided.

The PHA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, the PHA will grant an additional 60 calendar days to a total of 120 days to provide documentation.

Social security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. In addition, if a child reaches the age of 6 and has no SSN, the parent or guardian must execute a self-certification stating that the child has no SSN at the next regularly scheduled reexamination.

The social security numbers of household members, such as live-in aids, must be verified for the purpose of conducting criminal background checks.

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.

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA 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.

Age must be verified only once during continuously-assisted occupancy.

7-II.D. FAMILY RELATIONSHIPS

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

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

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a marital relationship, the PHA 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

Certification by the head of household is normally sufficient verification. If the PHA has reasonable doubts about a separation or divorce, the PHA will require the family to document the divorce, or separation.

A certified copy of a divorce decree, signed by a 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 accepted.

Absence of Adult Member

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family. The PHA will consider any of the following as verification:

Husband or wife institutes divorce action.

Husband or wife institutes legal separation.

Order of protection/restraining order obtained by one family member against another.

Proof of another home address; such as, lease or rental agreement, cancelled checks for rent, utility bills or driver's license, if available.

Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If no other proof can be provided, the PHA will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

Foster Children and Foster Adults

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. VERIFICATION OF STUDENT STATUS

The PHA 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 claims full-time student status for an adult other than the head, spouse, or cohead, or

The family claims a child care deduction to enable a family member to further his or her education.

7-II.F. DOCUMENTATION OF DISABILITY

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. 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 will not place this information in the tenant file. Under no circumstances will the PHA 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.

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

The PHA will attempt to obtain information about disability benefits through the HUD UIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD UIV System or TASS is not available, the PHA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

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, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

Family Members Not Receiving SSA Disability Benefits

For family members claiming disability who do not receive SSI or other disability payments 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.

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 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.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA 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 7-2 at the end of this chapter summarizes documents family members must provide.

PHA 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.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the Bureau of Citizenship and Immigration Services (BCIS).

The PHA will follow all BCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

The PHA must verify any preferences claimed by an applicant.

Residency Preference: For families who live, work or have been hired to work in the jurisdiction of the PHA.

In order to verify that an applicant is a resident, the PHA will require a minimum of 3 of the following documents: rent receipts, leases, utility bills, driver's license, voter's registration records, credit reports and/or statement from household with whom the family is resident.

Medical/Disability Preference: This preference is available for families with a member who has a disability as defined in this Admin Plan.

The PHA will require appropriate documentation from a knowledgeable professional.

The PHA will not inquire as to the nature of the disability except as to verify necessity for accessible unit.

Award letter or other proof of eligibility for Social Security Disability or Supplemental Security Income will be acceptable.

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

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.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

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 PHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the PHA 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, the PHA 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 the PHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

The PHA will attempt to obtain information about social security/SSI benefits through the HUD UIV System or the Tenant Assessment Subsystem (TASS) when available. If not available, the PHA will attempt to contact the SSA for third-party written/oral verification of payments. If third-party verification is not available through either source, the family may provide an original SSA document that confirms the current benefits.

7-III.D. ALIMONY OR CHILD SUPPORT

The way the PHA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that it *receives regular payments*, verification will be sought in the following order.

If payments are made through a state or local entity, the PHA will request a record of payments for the past 12 months and request that the entity disclose any known information about the likelihood of future payments.

A notarized letter from the person paying the support (voluntary or not) and the contributor's address and telephone number.

Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules

Copy of the latest check and/or payment stubs from Court Trustee. PHA must record the date, amount and number of the check.

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.

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 copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.

A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts

A notarized affidavit from the family indicating the amount(s) received.

A welfare notice of action showing amounts received by the welfare agency for child support.

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.

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. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

The PHA will verify the value of assets disposed of only if:

The PHA 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 the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA 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, the PHA will verify the value of this asset.

7-III.F. NET INCOME FROM RENTAL PROPERTY

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

IRS Form 1040 with Schedule E (Rental Income).

Copies of latest rent receipts, leases or other documentation or rent amounts.

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, the PHA 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.

7-III.G. RETIREMENT ACCOUNTS

When third-party verification is not available the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, the PHA 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, the PHA 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, the PHA 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.

7-III.H. INCOME FROM EXCLUDED SOURCES

A detailed discussion of excluded income is provided in Chapter 6, Part I.

The PHA must obtain verification for income exclusions only if, without verification, the PHA would not be able to determine whether the income is to be excluded. For example: If a family's 16 year old has a job at a fast food restaurant, the PHA will confirm that PHA records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

The PHA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, the PHA will report the amount to be excluded as indicated on documents provided by the family.

7-III.I. ZERO ANNUAL INCOME STATUS

Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

The PHA may run a credit report if information is received that indicates the family has an unreported income source.

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 will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead 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 will verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

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

The PHA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case the PHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The PHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

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, the PHA 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 cohead is at least 62, or a person with disabilities. The PHA will 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 the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

Expenses Incurred in Past Years

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA will verify:

The anticipated repayment schedule

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

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

Attendant Care

The PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

Third-party verification form signed by the provider, when possible

If third-party is not possible, copies of cancelled checks used to make attendant care payments and/or receipts from care source

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

Third-party verification of anticipated purchase costs of auxiliary apparatus

If third-party is not possible, 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

If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming 12 months

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- 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.

The PHA will seek 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.).

If third-party and document review 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.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

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.

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 child care.
- The costs are reasonable.

Eligible Child

To be eligible for the child care 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 child care deduction, the costs must not be reimbursed by another source.

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care 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.

Information to be Gathered

The PHA 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 the PHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the PHA will request verification from the agency of the member's job seeking efforts to date and require the family to submit to the PHA any reports provided to the other agency.

In the event third-party verification is not available, the PHA will provide the family with a form on which the family member must record job search efforts. The PHA will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The PHA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered.

Gainful Employment

The PHA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. 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.

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.

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The PHA will verify that the fees paid to the child care 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).

The PHA will verify that the child care 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 child care costs can be deducted.

The actual costs the family incurs will be compared with the PHA'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, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Exhibit 7-1: Excerpt from HUD Verification Guidance Notice (PIH 2004-01, pp. 11-14)

Upfront (UIV)	Highest (Highly Recommended, highest level of third party verification)
Written 3rd Party	High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)
Oral 3rd Party	Medium (Mandatory if written third party verification is not available)
Document Review	Medium-Low (Use on provisional basis)
Tenant Declaration	Low (Use as a last resort)

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Wages/Salaries	Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.	In the event the independent source does not respond to the PHA’s written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information.	When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family’s total annual income from earnings. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.	The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form.			
	Use of HUD systems, when available.				
Verification of Employment Income: The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form. Effective Date of Employment: The PHA should always confirm start and termination dates of employment.					

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Self-Employment	Not Available	The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.	The PHA may call the source to obtain income information.	The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. Note: The PHA must document in the tenant file, the reason third party verification was not obtained.	The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Verification of Self-Employment Income: Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement.					
Social Security Benefits	Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.	The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. (Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)	The PHA may accept an original SSA Notice from the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Welfare Benefits	Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.	The PHA may call the local Social Services Agency to obtain current benefit amount.	The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Child Support	Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status.	The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Unemployment Benefits	Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.	The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.	The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. Note: The PHA must document in the tenant file, the reason third party verification was not available.
	Use of HUD systems, when available.				
Pensions	Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.	The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.	The PHA may call the pension provider to obtain current benefit amount.	The PHA may review an original benefit notice from the pension provider provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. Note: The PHA must document in the tenant file, the reason third party verification was not available.

Income Type	Upfront	Written Third Party	Oral Third Party	Document Review	Tenant Declaration
	(LEVEL 5)	(LEVEL 4)	(LEVEL 3)	(LEVEL 2)	(LEVEL 1)
Assets	Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.	The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.	The PHA may call the source to obtain asset and asset income information.	The PHA may review original documents provided by the tenant. Note: The PHA must document in the tenant file, the reason third party verification was not available.	The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. Note: The PHA must document in the tenant file, the reason third party verification was not available.
Comments	Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review.	Note: The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source.	The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount.		The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. Notarized statement should include a perjury penalty statement.
Note: The PHA must not pass verification costs along to the participant.					
Note: In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.)					

Exhibit 7-2: Summary of Documentation Requirements for Noncitizens
[HCV GB, pp. 5-9 and 5-10]

<ul style="list-style-type: none"> • All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA. • Except for persons 62 or older, all noncitizens must sign a verification consent form • Additional documents are required based upon the person's status. 	
Elderly Noncitizens <ul style="list-style-type: none"> • 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. 	
All other Noncitizens <ul style="list-style-type: none"> • Noncitizens that claim eligible immigration status also must present the applicable BCIS document. Acceptable BCIS documents are listed below. 	
<ul style="list-style-type: none"> • Form I-551 Alien Registration Receipt Card (for permanent resident aliens) • Form I-94 Arrival-Departure Record annotated with one of the following: <ul style="list-style-type: none"> • “Admitted as a Refugee Pursuant to Section 207” • “Section 208” or “Asylum” • “Section 243(h)” or “Deportation stayed by Attorney General” • “Paroled Pursuant to Section 221 (d)(5) of the BCIS” 	<ul style="list-style-type: none"> • Form I-94 Arrival-Departure Record with no annotation accompanied by: <ul style="list-style-type: none"> • A final court decision granting asylum (but only if no appeal is taken); • A letter from a BCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a BCIS district director granting asylum (application filed before 10/1/90); • A court decision granting withholding of deportation; or • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).
<ul style="list-style-type: none"> • Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”. 	<ul style="list-style-type: none"> • Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.
<ul style="list-style-type: none"> • A receipt issued by the BCIS 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 BCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i> 	

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA procedures, and how to lease a unit. The family will also receive a briefing packet which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the PHA will issue vouchers to applicants whose eligibility has been determined. The number of vouchers issued must ensure that the PHA stays as close as possible to 100 percent lease-up. The PHA performs a monthly calculation electronically to determine whether applications can be processed, the number of vouchers that can be issued, and to what extent the PHA can over-issue (issue more vouchers than the budget allows to achieve leaseup).

The PHA may over-issue vouchers only to the extent necessary to meet leasing goals. All vouchers which are over-issued must be honored. If the PHA finds it is over-leased, it must adjust future issuance of vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to the PHA clerical staff or Assistant Manager

Briefings will be conducted in English. Briefings will also be conducted in Spanish.

The purpose of the briefing is to explain how the program works and the documents in the voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The PHA will not issue a voucher to a family unless the household representative has attended a briefing and signed the voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend a scheduled briefing, without prior notification and approval of the PHA, may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements.

The family is provided with the following information and materials

The term of the voucher, and the PHA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

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. How the PHA determines the maximum allowable rent for an assisted unit including the rent reasonableness standard.

Where the family may lease a unit. For family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, 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 and how the voucher size relates to the unit size selected.

The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The 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. The PHA will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines and the phone numbers of the local fair housing agency and the HUD enforcement office.

A list of landlords or other parties willing to lease to assisted families or help in the search and known units available for the voucher issued. The list includes landlords or other parties who are willing to lease units or help families find units outside areas of poverty or minority concentration.

If the family includes a person with disabilities, notice that the PHA will provide a list of available accessible units known to the PHA.

The family obligations under the program.

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.

Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability. (required for PHAs in MSAs)

A map showing areas representing various income levels of the jurisdiction and surrounding areas for the purpose of expanding housing opportunities for families. (required for PHAs in MSAs)

Information regarding the PHA's outreach program which assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.

A list of properties or property management organizations that own or operate housing units outside areas of poverty or minority concentration (required for PHAs in MSAs).

PHA's sample lease for owners who do not use a lease for their unassisted tenants.

Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.

The family's rights as a tenant and a program participant.

Requirements for reporting changes between annual recertifications.

Information on security deposits and legal referral services.

Exercising choice in residency

Choosing a unit carefully and only after due consideration.

The Family Self Sufficiency program and its advantages.

Utility Chart.

Program rental rates.

If the family includes a person with disabilities, the PHA will ensure compliance with CFR 8.6 to ensure effective communication.

Move Briefing

A move briefing will be held for participants who will be reissued a voucher to move, and who have been recertified within the last 120 days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families.

Owner Briefing

Briefings are held for owners periodically on an as needed basis. All new owners receive a personal invitation and current owners are notified by mail. Prospective owners are also welcome. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties.

Signature Briefing

All new owners will be required to attend a signature briefing with the family head at the office to execute contracts and leases. Other owners will be encouraged to attend signature briefings to reduce future conflict between the owner and tenant. The PHA will provide details on the program rules and relationships and responsibilities of all parties.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the PHA will provide assistance to families who wish to do so.

The PHA will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

Providing families with a search record form to gather and record info.

Direct contact with landlords.

Counseling with the family.

Providing information about services in various non-impacted areas.

Meeting with neighborhood groups to promote understanding.

Formal or informal discussions with social service agencies

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

The PHA will give participants a copy of HUD Form 903 to file a complaint.

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

The owner is not required to but may collect a security deposit from the tenant.

Security deposits charged to families may be any amount the owner wishes to charge, subject to the following conditions:

Security deposits charged by owners may not exceed those charged to unassisted tenants or not more than one month's rent.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Expirations

The voucher is valid for a period of at least sixty calendar days from the date of issuance. The family must submit a Request for Approval of the Tenancy and Lease within the sixty-day period unless an extension has been granted by the PHA.

If the voucher has expired, and has not been extended by the PHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

Suspensions

When a Request for Approval of Tenancy is received, the PHA will not deduct the number of days required to process the request from the 60 day term of the voucher.

Extensions

The PHA will extend the term up to 120 days from the beginning of the initial term if the family needs and request an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. If the family needs an extension in excess of 120 days, the PHA will extend the voucher term for no more than 60 days.

A family may request a written request for an extension of the voucher time period. All requests for extensions must be received prior to the expiration date of the voucher.

Extensions are permissible at the discretion of the PHA up to a maximum of an additional 60 days primarily for these reasons:

Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty-day period. Verification is required.

The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the initial sixty-day period. A completed written search record is required (See Appendix #A10).

The family was prevented from finding a unit due to disability accessibility requirements. The written search record is part of the required verification.

The PHA extends in one or more increments. Unless approved by the Section 8 Manager, no more than two extensions of 30 days or less will be granted and never for a total of more than an additional sixty days.

Assistance to Voucher Holders

Families who require additional assistance during their search may call the PHA Office to request assistance. Voucher holders will be notified at their briefing session that the PHA periodically updates the listing of available units and how the updated list may be obtained.

The PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

After the first 30 days of the search, the family is required to maintain a search record and report to the PHA every 30 days.

G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS [24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Section 8 Manager shall consider the following factors to determine which of the families will continue to be assisted:

Which of the two new family units has custody of dependent children.

Which family member was the head of household when the voucher was initially issued (listed on the initial application).

Whether domestic violence was involved in the breakup.

Which family members remain in the unit.

Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the PHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER
[24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

The PHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. The adult must pass all PHA screening criteria.

A reduction in family size may require a reduction in the voucher family unit size.

Chapter 9

REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

[24 CFR 982.302]

NOTE

Effective October 21, 1998 the Quality Housing and Work Responsibility Act of 1998 (QHWRA) made permanent the 90-day owner termination and endless lease requirements. PHAs are no longer limited to the use of the endless lease, exclusively. Owners can now choose from the following options, but the initial term must still be at least 12 months.

They can elect to have an indefinite extension of the initial term (the endless lease). This option allows that the owner can only terminate tenancy during the term of the lease by instituting a court action, or

They can elect fixed, definite extensions of the initial term, such as month-to-month or year-to-year. This option allows that the owner can terminate tenancy without cause at the end of the initial term or any subsequent term.

However, the new legislation permits the PHA to approve a shorter initial lease term, if the PHA determines that:

Such a shorter term would improve housing opportunities for the tenant, and

Such shorter term is the prevailing local market practice.

INTRODUCTION [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA, or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This chapter defines the types of eligible housing, the PHA's policies which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Tenancy Approval (RFTA).

A. REQUEST FOR TENANCY APPROVAL [24 CFR 982.302, 982.305(b)]

The Request for Tenancy Approval (RFTA) and a copy of the proposed lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Tenancy Approval in the form and manner required by the PHA.

The Request for Tenancy Approval must be signed by both the owner and voucher holder.

The PHA will not permit the family to submit more than one RFTA at a time.

The PHA will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable. The request will be approved if:

The unit is an eligible type of housing

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The security deposit is approvable in accordance with any limitations in this plan.

The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below).

The owner is approvable and there are no conflicts of interest (See "Owner Disapproval" section below).

In addition to the above, at the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

Disapproval of RFTA

If the PHA determines that the request cannot be approved for any reason, the landlord and the family will be notified in writing. The PHA will instruct the owner and family of the steps that are necessary to approve the request.

The owner will be given 10 calendar days to submit an approvable RFTA from the date of disapproval.

When, for any reason, an RFTA is not approved, the PHA will furnish another RFTA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

B. ELIGIBLE TYPES OF HOUSING [24 CFR 982.353]

The PHA will approve any of the following types of housing in the voucher program:

All structure types can be utilized.

Manufactured homes where the tenant leases the mobile home and the pad.

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The PHA may not permit a voucher holder to lease a unit which is receiving project-based Section 8 assistance or any duplicative rental subsidies.

C. LEASE REVIEW [24 CFR 982.308]

The PHA will review the lease, particularly noting the approvability of optional charges and compliance with regulations and state and local law. The tenant also must have legal capacity to enter a lease under state and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the on the Request For Tenancy Approval.

The family and owner must submit a standard form of lease used in the locality by the owner and that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with state and local law.

The lease must specify:

The names of the owner and tenant (including co-head and all family members to reside in household), and

The address of the unit rented (including apartment number, if any), and

The amount of the monthly rent to owner, and

The utilities and appliances to be supplied by the owner, and

The utilities and appliances to be supplied by the family.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that owner may evict family when the owner determines that:

Any household member is illegally using a drug; or

A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The lease must provide that the following types of criminal activity by a "covered person" are grounds to terminate tenancy:

Any criminal activity that threatens the health, safety or 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, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

Any violent criminal activity on or near the premises by a tenant, household member, or guest; or

Any violent criminal activity on the premises by any other person under the tenant's control.

The lease must provide that the owner may terminate tenancy if a tenant is:

Fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (high misdemeanor in NJ); or

Violating a condition of probation or parole imposed under Federal or State law.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the PHA to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The PHA has inspected the unit and has determined that the unit satisfies the HQS;

The PHA has determined that the rent charged by the owner is reasonable;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;

The PHA has approved leasing of the unit in accordance with program requirements;

When the gross rent exceeds the applicable payment standard for the family, the PHA must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

D. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the PHA.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

The PHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

F. RENT LIMITATIONS [24 CFR 982.507]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

By accepting each monthly housing assistance payment from the PHA, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in

the premises. The owner is required to provide the PHA with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the PHA.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed gross rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than 40% of the family's monthly adjusted income, the PHA will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the PHA will continue processing the Request for Tenancy Approval and lease. If the revised rent involves a change in the provision of utilities, a new Request for Tenancy Approval must be submitted by the owner.

If the owner does not agree on the rent to owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the PHA will furnish prospective owners with the family's current address as shown in the PHA's records and, if known to the PHA, the name and address of the landlord at the family's current and prior address.

The PHA will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The PHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the PHA's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The PHA will provide the following information to prospective owners upon request, based on documentation in its possession:

Eviction history

Damage to rental units

Other aspects of tenancy history

Criminal activity and/or drug trafficking by the family members

The information will be provided for the last two years.

The information will be provided orally.

Only the Section 8 Manager and Section 8 Assistant Manager may provide this information. The PHA's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See chapter on "Owner Disapproval and Restriction."

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will affect the total family share prior to the effective date of the HAP contract at admission, the information will be verified and the total family share will be recalculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP contract, even if verifications are more than 60 days old.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The PHA prepares the Housing Assistance Contract and lease for execution. The family and the owner will execute the lease agreement, and the owner and the PHA will execute the HAP contract. Copies of the documents will be furnished to the parties who signed the respective documents. The PHA will retain a copy of all signed documents.

The PHA makes every effort to execute the HAP contract before the commencement of the lease term. The HAP contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following PHA representative(s) is/are authorized to execute a contract on behalf of the PHA: Section 8 Manager and Section 8 Assistant Manager.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address. (A Post Office Box may be used for correspondence and check mailing only.)

Owners must provide an employer identification number or social security number.

The owner must provide a home telephone number and business number if applicable.

If the case where an owner lives out of the area (out of a 30 mile radius of the local PHA), the landlord must provide a local contact person's name and telephone number for repairs and emergency situations, or a unit will not be approved to be placed on the program.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

L. CHANGE IN OWNERSHIP

See "Owner Disapproval and Restriction" chapter.

Chapter 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HAP contract.

The PHA will inspect each unit under contract at least annually. The PHA will also have an inspection supervisor perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the PHA's required standards and to assure consistency in the PHA's program. This chapter describes the PHA's procedures for performing HQS and other types of inspections, and PHA standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and PHA requirements. (See additions to HQS).

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

The PHA has adopted local requirements of acceptability in addition to those mandated by the HUD Regulations.

All units must meet the minimum standards set forth in the City of Bethlehem's Building/Housing Code. A Certificate of Occupancy is required in all municipalities where one is required. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards. The PHA will not promote any additional acceptability criteria which is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be in service prior to the inspection. If the utilities are not in service at the time of inspection, the inspector will notify the tenant or owner whomever is responsible for the utilities according to the RFTA to have the utilities turned on. The inspector will schedule a reinspection.

If the tenant is responsible for supplying the refrigerator, the PHA will allow the refrigerator to be placed in the unit after the unit has passed all other HQS. The family must then certify that the appliances are in the unit and working. The PHA will not conduct a reinspection until the annual re-examination or notification from the landlord that the family has no refrigeration.

There are five types of inspections the PHA will perform:

1. Initial/Move-in: Conducted upon receipt of Request for Tenancy Approval.
2. Annual: Must be conducted within twelve months of the last annual inspection.
3. Move-Out/Vacate (for pre 10/2/95 contracts where there could be damage claims)
4. Special/Complaint: At request of owner, family or an agency or third-party.
5. Quality Control

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]

Timely Initial HQS Inspection

The PHA will inspect the unit, determine whether the unit satisfies the HQS and notify the family and owner of the determination within 15 days after the family and the owner have submitted a request for tenancy approval.

The same 15 day clock will be suspended during any period when the unit is not available for inspection.

The PHA will include “date unit available for inspection” on the RFTA form. This date will determine whether the PHA will be required to meet the same 15 day requirement or whether the PHA will suspend the same 15 day period because the unit is not available for inspection until after the same 15 day period.

Property owner/agents and families are encouraged to be present during an inspection of their unit(s) by the PHA.

The Initial Inspection will be conducted to:

Determine if the unit and property meet the HQS defined in this Plan.

Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information to be used for determination of rent-reasonableness.

If the unit fails the initial Housing Quality Standards inspection, the owner will be advised to notify the PHA once repairs are completed.

On an initial inspection, the owner will be given up to 30 days to correct the items noted as Fail, at the inspector's discretion, depending on the amount and complexity of work to be done.

The owner will be allowed up to two reinspections for repair work to be completed.

NOTE: Owners will be charged a \$30 fee for any unit for which a third inspection attempt must be made in order to complete a required initial inspection. Checks will be payable to: Bethlehem Housing Authority (memo section: Section 8, Reinspection Fee).

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed reinspections has occurred, the family must select another unit.

C. ANNUAL HQS INSPECTIONS [24 CFR 982.405(a)]

The PHA conducts an inspection in accordance with Housing Quality Standards at least annually, 90 days prior to the last annual inspection, so that the inspections are conducted at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates.

HQS deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the tenant is responsible.

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.551(d)]

Inspections will be conducted on business days only.

Reasonable hours to conduct an inspection are between 9:00 a.m. and 3:30 p.m.

The PHA will notify the family in writing or by phone at least two days prior to the inspection.

Inspection: The family is notified of the date and time of the inspection appointment by mail or phone. If the family is unable to be present, they must reschedule the appointment so that the inspection is completed within ten days.

If the family does not contact the PHA to reschedule the inspection, or if the family misses two inspection appointments, the PHA will consider the family to have violated a Family Obligation and their assistance will be terminated in accordance with the termination procedures in the Plan.

NOTE: Owners will be charged a \$30 fee for any unit for which a third inspection attempt must be made in order to complete a required initial inspection. Checks will be payable to: Bethlehem Housing Authority (memo section: Section 8, Reinspection Fee).

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.)

For non-emergency items, repairs must be made within 30 days.

For major repairs, the Section 8 Manager may approve an extension beyond 30 days.

Rent Increases

Rent to owner increases may not be approved if the unit is in a failed condition.

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies the PHA that the unit does not meet Housing Quality Standards, the PHA will conduct an inspection.

The PHA may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The PHA will inspect only the items which were reported, but if the inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs.

If the annual inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection will be categorized as annual and all annual procedures will be followed.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections will be performed by the Information Systems Department on the number of files required by SEMAP. The purpose of Quality Control inspections is to ascertain that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401 (a)]

The PHA adheres to the acceptability criteria in the program regulations **and local codes with the additions described below.**

Local Codes [24 CFR 982.401(a)(4)]

A Certificate of Occupancy from the local municipality must be presented prior to the signing of all contracts and before any rent check can be released.

A landlord may present a “conditional” Certificate of Occupancy provided the items in questions have been taken care of and checked by the PHA Inspector (a re-inspection by the City could take up to six weeks). The owner must still submit a “clear” Certificate of Occupancy or the checks will be held until it is provided.

Additions

Every dwelling, cellar/basement and crawl space must be reasonably free from dampness. Cellars with dirt floors will be required to be cemented.

Walls:

In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.

Any exterior or interior surfaces with peeling or chipping paint must be scraped and painted with two coats of unleaded paint or other suitable material. This applies to families who have children **under six years of age or a pregnant family member.**

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.

Any room for sleeping must have a window.

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.

Floors:

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors must be in a finished state (no plywood).

All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe may be used for kitchens and bathrooms.

Sinks:

All sinks and commode water lines must have shut off valves.

All work or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

All sinks must have functioning stoppers.

Security:

If window security bars or security screens are present on emergency exit window, 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.

Tenants are responsible for providing and replacing old batteries for battery powered units. Tenants will be instructed not to tamper with smoke detectors or remove batteries.

Bedrooms:

Bedrooms in basements or attics are not allowed unless they meet local code requirements and must have adequate ventilation and emergency exit capability.

Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.

Modifications

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. PHA will allow execution of the HAP contract if unit meets all requirements and the modifications do not affect the livability of the unit.

G. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

Lack of security for the unit

Waterlogged ceiling in imminent danger of falling

Major plumbing leaks or flooding

Natural gas leak or fumes

Electrical problem which could result in shock or fire

No heat when outside temperature is below 32 degrees Fahrenheit and temperature inside unit is below 65 degrees Fahrenheit during the day and 60 degrees Fahrenheit at night. In the case of a heating interruption, a temporary heat source can be used until original heat source is restored. This must be taken care of as soon as possible.

Utilities not in service

No running water

Broken glass where someone could be injured

Obstacle which prevents tenant's entrance or exit

Lack of functioning toilet

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to make the repair, proper authorities will be notified by the PHA.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and the owner is responsible, the housing assistance payment will be abated and the HAP contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the PHA, and it is an HQS breach which is a family obligation, the PHA will terminate the assistance to the family.

Smoke Detectors

Inoperable smoke detectors are a serious health threat and will be treated by the PHA as an emergency (24 hour) fail item.

If the smoke detector is not operating properly the PHA will contact the owner by phone and request the owner to repair the smoke detector within 24 hours. The PHA will reinspect the unit the following day.

If the PHA determines that the family has purposely disconnected the smoke detector (by removing batteries or other means) , the family will be required to repair the smoke detector within 24 hours and the PHA will reinspect the unit the following day.

The PHA will issue a written warning to any family determined to have purposely disconnected the unit's smoke detector. Warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of the HQS.

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)
[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the PHA, the assistance payment to the owner will be abated.

Abatement

A Notice of Abatement will be sent to the owner, and the abatement will be effective from the day after the date of the failed inspection. The notice is generally for 30 days, depending on the nature of the repair(s) needed.

The PHA will inspect abated units within five days of the owner's notification that the work has been completed.

If the owner makes repairs during the abatement period, payment will resume on the day the unit passes inspection.

The family will be notified of the reinspection date.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the PHA's portion of rent that is abated.

Reduction of Payments

The PHA will grant an extension in lieu of abatement in the following cases:

There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.

The owner makes a good faith effort to make the repairs.

The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds.

The repairs must be delayed due to climate conditions.

The extension will be made for a period of time not to exceed 30 days. At the end of that time, At the PHA's discretion, if the work is not completed, the PHA will begin the abatement.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the owner will be sent a HAP Contract Proposed Termination Notice. Prior to the effective date of the termination, the abatement will remain in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by the PHA if the tenant chooses to remain in the unit. Only one Housing Quality Standards inspections will be conducted after the termination notice is issued.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

Tenant-paid utilities not in service

Failure to provide or maintain family-supplied appliances

Damage to the unit or premises caused by a household member or guest beyond normal wear and tear

"Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The PHA may terminate the family's assistance on that basis.

The inspector will make a determination of owner or family responsibility during the inspection.

If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs and the family's file will be noted.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the PHA will require the family make any repair(s) or corrections within 24 hours for emergency violations and 30 days for non-emergency violations. If the repair(s) or correction(s) are not made in this time period, the PHA will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases must be approved by the Section 8 Manager or Section 8 Assistant Manager. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP contract will terminate when assistance is terminated.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Section 8 Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Programs into one program, called the Housing Choice Voucher Program.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described at 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The PHA will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the PHA's responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This chapter explains the PHA's procedures for determination of rent-reasonableness, payments to owners, adjustments to the payment standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to owner is limited only by rent reasonableness. The PHA must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission or a move to a different unit, if the gross rent for the unit exceeds the applicable payment standard for the family, the family share may not exceed 40 percent of the family's monthly adjusted income.

During the initial term of the lease, the owner may not raise the rent to owner.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP contract is executed, the PHA begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP Register for the following month. Checks are disbursed by Accounting Department to the owner each month. Checks may be picked up by owner at the PHA. Checks will be disbursed on approximately the first and/or 16th of the month provided that the funds are available from HUD.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the PHA housing assistance payment to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the PHA.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

Late Payments to Owners

It is a local business practice in Bethlehem for property managers and owners to charge tenants a reasonable late fee (not to exceed \$25) for rents not received by the owner or property manager by the due date, notwithstanding any grace period which is typically five days past the first of the month.

Therefore, in keeping with generally accepted practices in the local housing market, the PHA must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

The PHA will pay a \$25 late fee to the owner for housing assistance payments that are not received by the owner by the 15th day of the month, if requested by the owner, in writing unless HUD has not made funds available for disbursement and the PHA has notified the owner of the anticipated delay in writing.

Proof of "mailed to" date will be the date the HAP Register was run.

Proof of "Received by Owner" will be five calendar days after date of mailing by PHA

To assist the PHA in its outreach efforts to owners, and to provide better customer service, the PHA will offer to make automatic monthly HAP deposits into the bank account of the owner. If the owner agree to such an arrangement with the PHA, the date the bank shows as the deposit date, will be the official date of record and will be the determining factor in cases involving late payment penalties. No penalty will be assessed to the PHA after the 15th of the month when the owner requests this form of payment processing. (Note: This is not by electronic deposit.)

The PHA will not be obligated to pay any late payment penalty if HUD determines that late payment is due to factors beyond the PHA's control, such as a delay in the receipt of program funds from HUD. The PHA will use administrative fee income or the administrative fee reserve as its only source for late payment penalty.

The PHA will not use any program funds for the payment of late fee penalties to the owner.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The PHA will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market. This applies to all programs.

The PHA will not approve a lease until the PHA determines that the initial rent to owner is a reasonable rent. The PHA must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The PHA must redetermine rent reasonableness if directed by HUD and based on a need identified by the PHA's auditing system. The PHA may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the PHA

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the PHA information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from newspapers, Realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The market areas for rent reasonableness are zip codes, census tracts and neighborhoods within the PHA's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

Size (number of Bedrooms/square footage)

Location

Quality

Amenities (bathrooms, dishwasher, air conditioning, etc.)

Housing Services

Age of unit

Unit Type

Maintenance

Utilities

Rent Reasonableness Methodology

The PHA utilizes a rent reasonableness system called Rentellect which includes and defines the HUD factors listed above. The system has a total point count which is divided into rating categories.

The PHA uses a "standard deviation" method and uses automation to identify the average rent for units of like size and type within the same market area. The average is adjusted up or down based on the dollar value of all HUD required comparable items. This is done via the Internet with Rentellect and Internet based Rent Reasonableness system.

Rentellect maintains a database of unassisted comparable units in our jurisdiction. This is updated twice a year. The PHA office is provided with a "hard copy" of the unassisted comparable units.

Rent Reasonableness is not necessary when there is no request for a rental increase by the landlord.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the PHA's discretion, the Voucher Payment Standard amount is set by the PHA between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The PHA reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the PHA will ensure that the Payment Standard is always within the range of 90 percent to 110 percent of the new FMR, unless an exception payment standard has been approved by HUD.

The PHA will establish a single voucher payment standard amount for each FMR area in the PHA jurisdiction. For each FMR area, the PHA will establish payment standard amounts for each "unit size". The PHA may have a higher payment standard within the PHA's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The PHA may approve a higher payment standard within the basic range, if required as a reasonable accommodation for a family that includes a person with disabilities.

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted, within HUD regulatory limitations, to increase Housing Assistance Payments in order to keep families' rents affordable. The PHA will not raise Payment Standards solely to make "high end" units available to Voucher holders. The PHA may use some or all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

The PHA will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the PHA's jurisdiction have payment standard amounts that are creating rent burdens for families, the PHA will modify its payment standards for those particular unit sizes.

Quality of Units Selected

The PHA will 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.

PHA Decision Point

The PHA will review the average percent of income of families on the program. If more than (percent – 25%) of families are paying more than 30% of monthly adjusted income, the PHA will determine whether there is a difference by voucher size, whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the PHA in the Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the PHA may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the PHA will continue increasing the payment standard.

Rent to Owner Increases

The PHA may review a sample of the units to determine how often owners are increasing rents and the average percent of increase by bedroom size.

Time to Locate Housing

The PHA may consider the average time period for families to lease up under the Voucher program. If more than 24% of Voucher holders are unable to locate suitable housing within the term of the voucher and the PHA determines that this is due to 50% of rents in the jurisdiction being unaffordable for families even with the presence of a voucher the Payment Standard may be adjusted.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the PHA may review the budget to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the PHA will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by the PHA for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the PHA must use the appropriate payment standard amount established by the PHA for the exception area in accordance with regulation at 24 CFR 982.503(c).

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [24 CFR 982.308(g)]

The owner is required to notify the PHA, in writing, at least sixty days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. See 24 CFR 982.503.

Chapter 12

RECERTIFICATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the PHA will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition. This Chapter defines the PHA's policy for conducting annual recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are two activities the PHA must conduct on an annual basis. *These activities will be coordinated whenever possible:

Recertification of income and family composition

HQS inspection

The PHA produces a monthly listing of units under contract to ensure that timely reviews of housing quality and factors related to total tenant payment/family share can be made.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections" chapter.

Rent adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually.

Moves Between Reexaminations

When families move to another dwelling unit:

* An annual recertification will be scheduled (unless a recertification has occurred in the last [120/specify number of] days and the anniversary date will be changed.

* **The anniversary date for the recertification will not be changed.**

Income limits are not used as a test for continued eligibility at recertification.

Reexamination Notice to the Family

The PHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least [specify number from 90 to 120] days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The PHA's procedure for conducting annual recertifications will be:

- * Schedule the date and time of appointments and mail a notification to the family [and owner].
- * Permit the family to schedule the date and time of appointments [by telephone/in writing].
- * Permit the family to come in anytime at their convenience during certain time periods.**

Completion of Annual Recertification

The PHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent.

Persons with Disabilities

Persons with disabilities who are unable to come to the PHA's office will be granted an accommodation by conducting the interview [at the person's home/by mail], upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information [24 CFR 982.516(f)]

***INSTRUCTION:** PHAs utilize two basic methods of data collection: 1) PHA allows the family to complete a recertification form, then reviews the form with the family; or 2) The housing interviewer interviews the family, asks the questions and records the answers on the recertification forms. This system utilizes the Personal Declaration Form so that the PHA has information in the family representative's own handwriting.*

The PHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

- * The PHA will allow the family to complete the recertification form.
- * The PHA representative will interview the family and enter the information provided by the family on the recertification form, review the information with the family and have them sign the form.
- * **The PHA will require the family to complete a Personal Declaration Form prior to all recertification interviews.**

Requirements to Attend

The following family members will be required to attend the recertification interview:

- * The head of household only
- * The head of household and spouse or co-head
- * **All adult household members**

If the head of household is unable to attend the interview:

- * The appointment will be rescheduled
- * The [spouse/co-head/any adult] may recertify for the family, provided that the head comes in within [specify number of] days to recertify

Failure to Respond to Notification to Recertify

The written notification must state which family members are required to attend the interview. The family may call to request another appointment date up to **[specify number of]** days prior to the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the PHA, the PHA **[will/will not]** reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA will:

- * **[Schedule/ not schedule]** a third appointment
- * Send family notice of termination and offer them an informal hearing
- * Exceptions to these policies may be made by [title] if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the notification letter to the family, the PHA will include instructions for the family to bring the following:

- * Documentation of all assets
- * Documentation of any deductions/allowances
- * **Personal Declaration Form completed by head of household**
- * **Other** [Name]

Verification of Information

The PHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than **[120/specify number]** days old.

Tenant Rent Increases

***INSTRUCTION:** HUD says "reasonable notice." We suggest you follow State law and provide at least a 30-day notice on rent increases (also decreases) for annual reexamination.*

If tenant rent increases, a thirty day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the PHA.

C. REPORTING INTERIM CHANGES [24 CFR 982.516]

Program participants must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain PHA approval prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The PHA will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

Increases in Income

***INSTRUCTION:** HUD permits PHAs to decide if increases in income and assets must be reported by the family, when increases must be reported, and whether or not interim adjustments will be done when there is an increase in income. Even if the PHA does not do interim adjustments when families have an increase in income, the PHA can still require families to report any increases.*

Interim Reexamination Policy

The PHA [**will/will not**] conduct interim reexaminations when families have an increase in income.

* Families will be required to report all increases in income/assets [immediately/within (specify number) days of the increase].

* Families will not be required to report increases in income/assets between regular annual reexaminations.

* Families will be required to report increases in household income of more than [\$ amount] per month.

* Families will be required to report only the increases in household income which comes from a new source.

Decreases in Income

Participants may report a decrease in income and other changes which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The PHA must calculate the change if a decrease in income is reported.

PHA Errors

If the PHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual recertification.

An interim reexamination will be scheduled for families with [zero/**unstable**] income every [30/**60/90/120**] days.

* If there is a change from benefit income to employment income, the PHA will defer the family's rent increase for six months or until the family's next annual recertification, whichever comes first, in order to encourage families to move to self-sufficiency.

* This incentive will only be provided once to any family member.

* If the family member leaves the job without good cause after six months and before twelve months, the rent will be calculated retroactively to include the employment income.

* This incentive is not provided to persons who work seasonally.

* In the following circumstances, the PHA may conduct the interim recertification by mail:

* Changes that will not result in a change in tenant rent or voucher size.

* Changes in income that are normal for the family, such as seasonal employment.

* As a reasonable accommodation when requested. (See "Statement of Policies and Objectives" chapter)

Any changes reported by participants other than those listed in this section [will be noted in the file by the staff person but] will not be processed between regularly-scheduled annual recertifications.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

INSTRUCTION: The QHWRRA established new requirements for the treatment of income changes resulting from welfare program requirements. However, before implementation of the new requirements, the PHA must revise operating procedure to effectuate these provisions.

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction," which is a reduction in benefits by the welfare agency specifically because of:

Fraud in connection with the welfare program, or

Noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits, or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment, or

A situation where a family member has not complied with other welfare agency requirements.

Definition of Covered Family

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "Imputed Welfare Income"

The amount of annual income, not actually received by a family, as a result of a specified welfare benefit reduction, that is included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the PHA, based on written information supplied to the PHA by the welfare agency, including:

- The amount of the benefit reduction

- The term of the benefit reduction

- The reason for the reduction

- Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim reexamination, during the term of the welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted resident when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the **[insert title]** will review the calculation for accuracy. If the imputed welfare income amount is correct, the PHA will provide a written notice to the family that includes:

- A brief explanation of how the amount of imputed welfare income was determined;

- A statement that the family may request an informal hearing if they do not agree with the PHA determination.

Verification Before Denying a Request to Reduce Rent

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The PHA will rely on the welfare agency's written notice to the PHA regarding welfare sanctions.

Cooperation Agreements [24 CFR 5.613]

INSTRUCTION: The final Admissions and Occupancy rule, published in the Federal Register on 3/29/00, requires PHAs to make best efforts to enter into cooperation agreements with welfare agencies.

*The PHA [has executed][will execute] a [Cooperation Agreement][Memorandum of Understanding] with the local welfare agency under which the welfare agency agrees:

*To target public assistance benefits and services to participants in the PHA's Self-Sufficiency program;

*To provide written verification to the PHA concerning welfare benefits for applicant and participant families, and specified reduction in welfare benefits for a family member, listing: amount of reduction; reason for reduction; term of reduction, and subsequent redetermination.

*The PHA will rely on the welfare agency's written notice regarding the amount of specified benefit reduction.

* The PHA [has executed] [will execute] a [Cooperation Agreement] [Memorandum of Understanding] with the local welfare agency to ensure timely and accurate verification of noncompliance.

* The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families.

* The PHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the PHA denies the family's request to modify the amount, the PHA will provide the tenant with a notice of denial, which will include:

An explanation for the PHA's determination of the amount of imputed welfare income

A statement that the tenant may request an informal hearing.

* A statement that the grievance information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the PHA's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS [HUD Notice PIH 98-6]

The HUD Form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures [are/are not] required by the PHA. If the family disagrees with the rent adjustment, they may request an informal hearing.

G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)

[24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The PHA requires that families report interim changes to the PHA within **[specify number of]** days of when the change occurs. Any information, document or signature needed from the family which is needed to verify the change must be provided within **[specify number of]** days of the change.

*** An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within [specify number of] days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.**

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The PHA will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice.

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. * However, no rent reductions will be processed until all the facts have been verified, even if a retroactive adjustment results.

* The change may be implemented based on documentation provided by the family, pending third-party written verification.

*** The change will not be made until the third party verification is received.**

Procedures when the Change is Not Reported by the Family in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to [sign a Repayment Agreement/make a lump sum payment].

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

Procedures when the Change is Not Processed by the PHA in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the PHA in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the PHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(c)]

(See "Subsidy Standards" chapter.)

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

***INSTRUCTION:** If the PHA implemented the Noncitizens Rule on or after November 29, 1996, mixed families may receive prorated assistance only.*

Under the Noncitizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

* The Noncitizens Rule was implemented on or after November 29, 1996, and mixed families may receive prorated assistance only.

*The Noncitizens Rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

The head of household or spouse is a U.S. citizen or has eligible immigrant status; AND

All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

Reserved

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314, 982.353, 982.355(a)]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the PHA's jurisdiction, or to a unit outside of the PHA's jurisdiction under portability procedures. The regulations also allow the PHA the discretion to develop policies which define any limitations or restrictions on moves. This chapter defines the procedures for moves, both within and outside of, the PHA's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the PHA has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (and if the family has a right to terminate the lease on notice to owner).

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

Families will not be permitted to move within the PHA's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move outside the PHA's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The PHA will deny permission to move if there is insufficient funding for continued assistance.

The PHA will deny permission to move if:

The family is in violation of a family obligation.

The family owes money to the PHA and/or LL.

The family owes legal fees related to their leased unit.

The lease term has not been fulfilled.

The family owes utilities (electric/gas) in excess of the average of one month's utility (electric/gas) billing. (Note: This includes "carryover" balances from a previous unit for new admissions to any Section 8 Program)

Damages to the current property exceed the Security Deposit.

The family owes a previous PHA or participating landlord money (discovery after placement in the program).

The Section 8 Manager may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

Families will be permitted to remain in the unit for an additional 30 days with written permission from the landlord if circumstances prevent the family from leasing another unit.

Should a tenant not move and the landlord is agreeable, the tenant must wait a minimum of six months before another vacate notice can be given to the landlord and the PHA. All notices of termination or cancellation of such must be in writing.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Voucher

Subject to the restrictions on moves, if the family has not been recertified within the last 120 days, the PHA will issue the voucher to move. The annual re-certification date will be changed to coincide with the new lease-up date and all family information will be re-verified.

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the PHA proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the PHA simultaneously.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease midmonth. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the PHA's jurisdiction within the United States and its territories.

When a family notifies the PHA that they want to move under the portability procedures, the tenant must specify the area to which the family wants to move. The initial PHA will confirm the following:

The family is eligible for assistance (i.e.; meets the requirements of the initial PHA) and

A Voucher has been issued to the family. The Initial PHA will submit the Portability Information Form (HUD-52665) along with a copy of the Voucher, form HUD-50058 and corresponding income information to the receiving PHA.

The PHA will advise the family how to contact and request assistance from the receiving HA.

The Bethlehem Housing Authority will administer Vouchers received from other jurisdictions and absorb the Vouchers as long as funding is available; otherwise, the Bethlehem Housing Authority will bill the initial PHA.

The PHA will notify the Receiving HA via mail that the family wishes to relocate into its' jurisdiction. The PHA will request that the Receiving HA absorb the tenant into their program. If they cannot absorb the tenant, the receiving HA can bill the PHA for the rental assistance and Administrative Fees (80%) as long as the Gross Rent does not exceed the PHA's Payment Standard for the particular bedroom size unit to be subsidized. If the Receiving HA cannot agree to this, a billing will **NOT** be accepted and the portability paperwork will be returned to the PHA.

The receiving HA will not be permitted to change the bedroom size of the Voucher issued unless they are going to absorb the tenant. **THERE WILL BE NO EXCEPTION TO THIS POLICY.**

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the PHA's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant-based program. When a family requests to move outside of the PHA's jurisdiction, the request must specify the area to which the family wants to move.

Restrictions on Portability

Applicants

If neither the head or spouse had a domicile (legal residence) in the PHA's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the PHA approves such move. [NOTE: legal domicile is defined by local government.]

For a portable family that was not already receiving assistance in the PHA's based program, the PHA must determine whether the family is eligible for admission under the receiving PHA's program.

Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances.

The receiving and initial PHA agrees to allow the move.

The family's move relates to an opportunity for education, job training or employment

A need for a reasonable accommodation due to a disability.

The PHA will not permit families to exercise portability if:

The family is in violation of a family obligation.

The family owes money to the PHA and/or landlord

The family owes legal fees related to their leased unit.

The family has moved out of its assisted unit in violation of the lease.

The family owes utilities (electric/gas) in excess of the average of one month's utility (electric/gas) billing

The lease term has not been fulfilled.

Damages to the current property exceed the Security Deposit.

Receiving PHA's will be required to submit hearing determinations to the PHA within 30 days.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The PHA will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. If administering, the family will be issued a "portable" voucher by the PHA. The term of the voucher will not expire before the expiration date of any initial PHA voucher. The family must submit a request for tenancy approval for an eligible unit to the receiving PHA during the term of the receiving PHA voucher. The receiving PHA may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the PHA's jurisdiction, they must contact the initial PHA to request an extension.

The PHA will absorb all incoming portable families provided that there is funding available.

When the PHA does not absorb the incoming voucher, it will administer the initial PHA's voucher and the receiving PHA's policies will prevail.

For admission to the program a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Section 8 tenant-based program.

The PHA will issue a "portability voucher" according to its own Subsidy Standards. If the family has a change in family composition which would change the voucher size, the PHA will change to the proper size based on its own Subsidy Standards.

Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As receiving PHA, the PHA will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the PHA conducts a recertification of the family it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the PHA's jurisdiction, the PHA will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Tenancy Approval

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval, it will be processed using the PHA's policies. If the family does not submit a Request for Tenancy Approval or does not execute a lease, the initial PHA will be notified within 30 days by the PHA.

If the family leases up successfully, the PHA will notify the initial PHA within 10 days, and the billing process will commence.

The PHA will notify the initial PHA if the family fails to submit a request for tenancy approval for an eligible unit within the term of the voucher.

If the PHA denies assistance to the family, the PHA will notify the initial PHA within 30 days and the family will be offered a review or hearing.

The PHA will notify the family of its responsibility to contact the initial PHA if the family wishes to move outside the PHA's jurisdiction under continued portability.

Regular Program Functions

The PHA will perform all program functions applicable the tenant-based assistance program, such as:

Annual reexaminations of family income and composition;

Annual inspection of the unit; and

Interim examinations when requested or deemed necessary by the PHA

Terminations

The PHA will notify the initial PHA in writing of any termination of assistance within 30 days of the termination. If an informal hearing is required and requested by the family, the hearing will be conducted by the PHA, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the initial PHA.

The initial PHA will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial PHA notifies the PHA that the family is in arrears or the family has refused to sign a payment agreement, the PHA will terminate assistance to the family.

Required Documents

As receiving PHA, the PHA will require the documents listed on the HUD Portability Billing Form from the initial PHA.

Billing Procedures

As Receiving PHA, the PHA will bill the initial PHA annually for housing assistance payments. The billing cycle for other amounts, including administrative fees and special claims will be annually unless requested otherwise by the initial PHA. The exception will be for interim adjustments and tenant moves.

The PHA will bill 100% of the housing assistance payment, 100% of special claims and 80% of the administrative fee (at the initial PHA's rate) for each "portability" voucher leased as of the first day of the month.

The PHA will notify the initial PHA of changes in subsidy amounts and will expect the initial PHA to notify the PHA of changes in the administrative fee amount to be billed.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311, 982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) contract is the contract between the owner and the PHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the PHA and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP contract is the same as the term of the lease. The contract between the owner and the PHA may be terminated by the PHA, or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the PHA to the owner after the month in which the contract is terminated. The owner must reimburse the PHA for any subsidies paid by the PHA for any period after the contract termination date.

If the family continues to occupy the unit after the Section 8 contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the PHA for vacancy loss under the provisions of certificate HAP contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS [24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner must provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations.

During the term of the lease the owner may only evict for:

Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;

Violations of Federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises.

Other good cause.

During the initial term of the lease, 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 (see 982.310)

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 they have engaged in the criminal activity:

Regardless of arrest or conviction

Without satisfying the standard of proof used for a criminal conviction

Termination of Tenancy Decisions

If the law and regulation permit the owner to take an action but don't require action to be taken, the owner can decide whether to take the action. Relevant circumstances for consideration include:

The seriousness of the offense

The effect on the community

The extent of participation by household members

The effect on uninvolved household members

The demand for assisted housing by families who will adhere to responsibilities

The extent to which leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action

The effect on the integrity of the program

Exclusion of culpable household member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

Consideration of Rehabilitation

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse, the owner may consider whether the member:

Is no longer participating

Has successfully completed a supervised drug or alcohol rehab program

Has otherwise been successfully rehabilitated

The owner may require the tenant to submit evidence of any of the three (above).

Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The 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 PHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the PHA's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP contract. If the owner has begun eviction 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 tenant.

The PHA will continue housing assistance payments until the family moves or is evicted from the unit.

If the action is finalized in court, the owner must provide the PHA with the documentation, including notice of the lock-out date.

The PHA must continue making housing assistance payments to the owner in accordance with the contract as long as the tenant continues to occupy the unit and the contract is not violated. By endorsing the monthly check from the PHA, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

If an eviction 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.

D. TERMINATION OF THE CONTRACT BY PHA
[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the PHA terminates program assistance for the family, and when the owner has breached the HAP contract. (See "Owner Disapproval and Restriction" chapter)

The PHA may also terminate the contract if:

The PHA terminates assistance to the family.

The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in family composition.

Funding is no longer available under the ACC.

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the PHA terminates the HAP contract under the violation of HQS space standards, the PHA will provide the owner and family written notice of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives such notice to the owner.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION

The PHA may deny or terminate assistance for a family because of the family's action or failure to act. The PHA will provide families with a written description of the family obligations under the program, the grounds under which the PHA can deny or terminate assistance, and the PHA's informal hearing procedures. This chapter describes when the PHA is required to deny or terminate assistance, and the PHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. GROUNDS FOR DENIAL/TERMINATION [24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the PHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a tenancy
- Refusing to process or provide assistance under portability procedures

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a tenancy
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

Mandatory Denial and Termination [24 CFR 982.54 (d), 982.552(b), 982.553(a), 982.553(b)]

The PHA must deny assistance to applicants, and terminate assistance for participants if the family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the PHA's last housing assistance payment was made. (See "Contract Terminations" chapter.)

The PHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The PHA must deny admission to the program for applicants, and terminate assistance for program participants if the PHA determines that any household member is currently engaging in illegal use of a drug. See section B of this chapter for the PHA's established standards.

The PHA deny admission to the program for applicants, and terminate assistance for program participants if the PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. See Section B of this chapter for the PHA's established standards.

The PHA must deny admission to an applicant if the PHA determines that any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. See section B of this chapter for the PHA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State sex offender registration program.

The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The PHA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with Part 5, subparts B and F.

The PHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

Grounds for Denial or Termination of Assistance [24 CFR 982.552(c)]

The PHA will deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons:

If any family member violates any family obligation under the program as listed in 24 CFR 982.551.

If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.

If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity.

Any member of the family has been evicted from federally assisted housing in the last five years.

If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program. This includes payments made to the landlord by the tenant in excess of stated rental amount on the lease/lease amendment and/or HAP Contract

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 breaches an agreement with a PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA. The PHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The PHA will prescribe the terms of the agreement. (See "Repayment Agreements" chapter.)

The family participating in an FSS program fails to comply, without good cause, with the family's FSS contract of participation.

If the family fails to fulfill its obligation under the Section 8 welfare-to-work voucher program. (Note: Bethlehem Housing Authority does not currently have any welfare-to-work Vouchers.)

The family has engaged in or threatened abusive or violent behavior toward PHA personnel.

"Abusive or violent behavior towards PHA personnel" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial.

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

Actual physical abuse or violence will always be cause for termination.

If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents. See section B of this chapter.

If any member of the family commits drug-related criminal activity, or violent criminal activity. (See Section B of this chapter and 982.553 of the regulations)

Refer to "Eligibility for Admission" chapter, "Other Criteria for Admission" section for further information.

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the Bethlehem Housing Authority to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal and family safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Assist families in their vocational/educational goals in the pursuit of self-sufficiency

Administration

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

This policy will be made readily available to applicants and participants to review in the office by appointment upon request.

Screening of Applicants

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by 24 CFR 982, Subpart L and CFR Part 5, Subpart J, the PHA

will endeavor to screen applicants as thoroughly and fairly as possible **for drug-related and violent criminal behavior.**

Such screening will apply to any member of the household who is 18 years of age or older.

HUD Definitions

Covered person, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity means 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.

Guest, for purposes of this chapter and 24 CFR part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest as so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA-approved live-in aide.

Other person under the tenant's control, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes, is not *under the tenant's control*.

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.

Standard for Violation

The PHA will deny participation in the program to applicants and terminate assistance to participants in cases where the PHA determines there is reasonable cause to believe that a household member is illegally using a drug or if the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents, including cases where the PHA determines that there is a pattern of illegal use of a drug or a pattern of alcohol abuse.

The PHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident during the previous 12 months.

“Engaged in or engaging in” violent criminal activity means any act within the past 5 years by an applicant or participant or household member which involved 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, which did or did not result in the arrest and/or conviction of the applicant, participant, or household member.

The activity is being engaged in by any family member.

The existence of the above-referenced behavior by any household member, regardless of the applicant or participant’s knowledge of the behavior, shall be grounds for denial or termination of assistance.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Drug Related and Violent Criminal Activity

Ineligibility for admission if Evicted for Drug-Related Activity: Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 program for a 5 year period beginning on the date of such eviction.

Instruction: HUD regulations at 982.553(a)(1)(i) allow the PHA to admit a household in less than 3 years following eviction for drug-related criminal activity under the conditions below. The PHA is not required to adopt the exceptions below, but may choose to do so. If the PHA does adopt a policy containing all or part of the provisions below, the PHA will still have discretion in determining whether to waive denial in individual cases.

However, the household may be admitted if, after considering the individual circumstances of the household, the PHA determines that:

The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA.

The circumstances leading to eviction no longer exist because:

The criminal household member has died.

The criminal household member is imprisoned.

Applicants will be denied assistance if they have been:

Convicted, and/or evicted from Federally assisted housing for violent criminal activity within the last 5 years prior to the date of the certification interview.

Denial of Assistance for Sex Offenders

The PHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the PHA will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement.

Termination of Assistance for Participants

Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:

Under the family obligations listed at 24 CFR 982.551, the members of the household 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. HUD regulations at 24 CFR 982.553(b) require the PHA to establish standards for termination of assistance when this family obligation is violated. The Bethlehem Housing Authority has established the following standards for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

Assistance will be terminated for participants who have been:

Convicted and/or evicted from a unit assisted under any Federally assisted housing program for drug-related or violent criminal activity during participation in the program, and within the last five years prior to the date of the notice to terminate assistance.

If any member of the household violates the family obligations by engaging in drug-related or violent criminal activity, the PHA will terminate assistance.

In appropriate cases, the PHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

The PHA may waive the requirement regarding drug-related criminal activity if:

The person demonstrates successful completion of a credible rehabilitation program approved by the PHA, or

The circumstances leading to the violation no longer exist because the person who engaged in drug-related criminal activity or violent criminal activity is no longer in the household due to death or incarceration.

Terminating Assistance for Alcohol Abuse by Household Members

Under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the PHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Assistance will be terminated if a household member is arrested, convicted, and/or incarcerated a second time for any alcohol-related criminal activity on or near the premises within any 12 month period.

In appropriate cases, the PHA may permit the family to continue receiving assistance provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the PHA may consider individual circumstances with the advice of Juvenile Court officials.

Notice of Termination of Assistance

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the PHA.

If the PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant with a copy of the criminal record.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

Preponderance of 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 shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

The PHA will terminate assistance for criminal activity by a household member, as described in this chapter, if the PHA determines, based on a preponderance of the evidence, that the household member has engaged in the activity, regardless of whether the household member has been arrested or convicted for such activity.

The PHA may pursue fact-finding efforts as needed to obtain credible evidence.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance and to upper level Section 8 management.

Misuse of the above information by any employee will be grounds for termination of employment. Legal penalties for misuses are contained in the PA State Code.

If the family is determined eligible for initial or continued assistance, the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

The family must supply any information that the PHA or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or

eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.

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 in accordance with HUD requirements.

The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.

All information supplied by the family must be true and complete.

The family is responsible for an HQS breach caused by the family as described in 982.404(b).

The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.

The family may not commit any serious or repeated violations of the lease.

The family must notify the owner and, at the same time, notify the PHA before the family moves out of the unit or terminates the lease upon notice to the owner.

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 inform the PHA 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.

The family must promptly notify the PHA if any family member no longer resides in the unit.

If the PHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or PHA approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.

Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.

The family must not sublease or let the unit.

The family must not assign the lease or transfer the unit.

The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit.

The family must not own or have any interest in the unit.

The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.

The household members may 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. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. 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 a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, State or local housing assistance program.

The family must give the PHA a copy of any owner eviction notice.

The family must give the PHA a copy of any owner eviction notice.

The family must pay utility bills and supply appliances that the owner is not required to supply under the lease.

Housing Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the PHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The PHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The PHA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. The PHA may permit the other members of a family to continue in the program.

Enforcing Family Obligations

Explanations and Terms

The term "promptly" when used with the family obligations always means "within 10 days." Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

HQS Breach

The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by Section 8 Manager.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease.

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the PHA determines that the cause is a serious or repeated violation of the lease based on available evidence, and

If there are police reports, neighborhood complaints or other third party information, that has been verified by the PHA.

Nonpayment of rent is considered a serious violation of the lease.

Notification of Eviction

If the family requests assistance to move and they did not notify the PHA of an eviction within 10 days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the Family

The PHA will deny a family's request to add additional family members who are:

Persons who have been evicted from public housing.

Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.

Persons who have been part of a family whose assistance has been terminated under the Voucher program.

Persons who commit drug-related criminal activity or violent criminal activity.

Persons who do not meet the PHA's definition of family.

Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

Persons who currently owe rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

Persons who have engaged in or threatened abusive or violent behavior toward PHA personnel.

Family Member Moves Out

Families are required to notify the PHA if any family member leaves the assisted household. When the family notifies the PHA, they must furnish the following information:

The date the family member moved out.

Proof of new residency of the family member.

Limitation on Profit-Making Activity in Unit

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business which is not available for sleeping, it will be considered a violation.

If the PHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

If the PHA determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit regardless of whether (s)he is a member of the assisted family, unless the family owns the mobile home and rents the pad.

Fraud

In each case, the PHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims: (See next section)

D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The PHA must offer the family an opportunity for a hearing. (See "Eligibility for Admission" chapter, section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the PHA has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the PHA will give him/her an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The PHA will then verify eligible status, deny, terminate, or prorate as applicable.

The PHA will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the PHA either after the INS appeal or in lieu of the INS appeal.

After the PHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANCIES [24 CFR 982.455 (a)]

The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180 day timeframe, an owner rent increase or a decrease in the Total Tenant Payment

causes the family to be eligible for a housing assistance payment, the PHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION

[24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the PHA to overpay assistance, the PHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement. One default of the signed Repayment Agreement will void the continuance of the assistance agreement.

G. MISREPRESENTATION IN COLLUSION WITH OWNER

[24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the PHA will deny or terminate assistance.

In making this determination, the PHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the PHA to fulfill its responsibilities. The PHA schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the PHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the PHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the PHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

Eligibility for Admissions

Verification Procedures

Certificate/Voucher Issuance and Briefings

Housing Quality Standards and Inspections

Re-certifications

Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

Medical emergency

Family emergency

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given 2 opportunities before being issued a notice of termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing:

The notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance.

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the PHA to recruit owners to participate in the voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The PHA will disapprove the owner for the following reasons:

HUD or other agency directly related has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the PHA 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.

HUD has informed the PHA 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, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any Federal housing program. Accepting "side payments" for rent is considered fraud.

The owner has engaged in 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 tenant-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 renting units that fail to meet State or local housing codes.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing.

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

Is drug-related criminal activity or violent criminal activity;

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

The owner has failed to obtain the required initial Certificate of Occupancy (C/O) and provide a "clear" C/O to the PHA prior to any lease-up.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

C. CHANGE IN OWNERSHIP

A change in ownership does require execution of a new contract and lease.

The PHA may approve the assignment of the HAP contract at the old owner's request. The PHA may approve the assignment, since they are a party to the contract. The PHA may deny approval of assignment of the contract, for any of the reasons listed in Section A. of this chapter.

The PHA will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title, recorded deed and the employee identification number or social security number of the new owner, as well as proof of the Security Deposit transfer.

If the new owner does not want an assignment of the contract, the PHA will terminate the HAP contract with the old owner, since they are no longer the owner. The new owner may offer the family a new assisted lease. The family may elect to enter into the new lease or move to another unit.

Chapter 17

CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS (For HAP Contracts Effective Before October 2, 1995)

INFORMATION

Under the Housing Choice Voucher Program, the PHA is not responsible for owner claims against the family. If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may collect the balance from the family.

Reserved

Chapter 18

OWNER OR FAMILY DEBTS TO THE PHA

[24 CFR 982.552]

INTRODUCTION

This chapter describes the PHA's policies for the recovery of monies which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the PHA's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the PHA's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the PHA, the PHA will make every effort to collect it. The PHA will use a variety of collection tools to recover debts including, but not limited to:

Requests for lump sum payments

Civil suits

Payment agreements

Abatements

Reductions in HAP to owner

Collection agencies

Credit bureaus

A. PAYMENT AGREEMENT FOR FAMILIES [24 CFR 982.552 (c)(v-vii)]

A Payment Agreement as used in this Plan is a document entered into between the PHA and a person who owes a debt to the PHA. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the PHA upon default of the agreement.

The PHA will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the PHA.

There are some circumstances in which the PHA will not enter into a payment agreement. They are:

If the family already has a Payment Agreement in place.

If the PHA determines that the family committed program fraud.

If the PHA determines that the debt amount is larger than can be paid back by the family in a reasonable amount of time.

Payment Schedule for Monies Owed to the PHA

All amounts from \$0 to \$300 must be paid in full within 30 days. For charges over \$300, the first payment shall not exceed an amount equal to one month's current rent, but not less than \$100. The balance shall be payable in equal monthly installments of not more than 50% of the current month's gross rent, but not less than \$100 until the balance is paid in full.

B. DEBTS OWED FOR CLAIMS [24 CFR 792.103, 982.552 (c)(v-vii)]

If a family owes money to the PHA for claims paid to an owner, the PHA will enter into a Payment Agreement.

Late Payments

A payment will be considered to be in arrears if:

The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day. In all cases, rent will be considered late if not paid by the fifth day following the due date.

The family will only be permitted to default two times, at which time the Payment Agreement will be voided and all monies owed must be paid in full.

If the family's payment agreement is in arrears, and the family has not contacted or made arrangements with the PHA, the PHA will:

Require the family to pay the balance in full,

Pursue civil collection of the balance due,

Terminate the housing assistance, and/or

Grant an extension of 30 days after reviewing circumstances resulting in the arrearage.

If the family requests a move to another unit and has a payment agreement in place for the payment of an owner claim, and the payment agreement is not in arrears, the family will be required to pay the balance in full prior to the issuance of a voucher.

A medical necessity will be an exception and must have written documentation from a physician explaining the need and benefits, and/or

the need for the family to downsize due to family composition changes resulting from court intervention or death.

If the family requests a move to another unit and is in arrears on a payment agreement for the payment of an owner claim:

The family will be required to pay the balance in full, or be terminated from the program.

If the family pays the past due amount, they will be permitted to move.

No portability move will be permitted with a balance owing to the PHA and/or landlord.

C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Section 8 program funds in violation of Section 8 program requirements.

Family Error/Late Reporting

Families who owe money to the PHA due to the family's failure to report increases in income will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

Program Fraud

Families who owe money to the PHA due to program fraud will be required to repay in accordance with the guidelines in the Payment Agreement Section of this Chapter.

If a family owes an amount which equals or exceeds \$3,000 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the PHA will refer the case for criminal prosecution.

Payment Procedures for Program Fraud

Families who commit program fraud [or untimely reporting of increases in income] will be subject to the following procedures:

The maximum time period for a Payment Agreement will be [specify number] months.

The family will be required to pre-pay 1/3 of the amount owed prior to or upon execution of the Payment Agreement.

The amount of the monthly payment will be determined in accordance with the family's current income.

D. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

If the family owes the PHA money for rent arrears incurred during the minimum rent period, the PHA will calculate the total amount owed and divide it by 12 to arrive at a reasonable payback amount that the family will be required to pay to the PHA monthly in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increased amount until the arrears are paid in full to the PHA.

Minimum rent arrears that are less than \$100 will be required to be paid in full the first month following the end of the minimum rent period.

The PHA will not enter into a payment agreement that will take more than 12 months to pay off.

If the family goes into default on the payment agreement for back rent incurred during a minimum rent period, the PHA will reevaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount and if not, restructure the existing payment agreement.

E. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552(c)(v-vii)]

Payment agreements will be executed between the PHA and the head of household and spouse.

The payment agreement must be executed by the Section 8 Manager or Section 8 Assistant Manager.

Payments may be made by cash, money order or personal check.

After one non-sufficient check has been received, all future payments must be made by cash, check or money order only. The family will also be responsible for any non-sufficient check fee charged to the PHA by their bank.

The agreement will be in default when a payment is delinquent by the 10th day past the due date.

The family's assistance will be terminated unless the PHA receives the balance of the payment agreement in full within 30 calendar days of the termination notice.

A payment agreement will be considered to be in default when it is in arrears for 30 days.

Monthly payments may be decreased in cases of family hardship and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Section 8 Manager.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the payment agreement is current:

The HAP contract is terminated due to owner non-compliance or opt-out

A natural disaster

Medical necessity as stated in this chapter

Court intervention

Death

Additional Monies Owed: If the family already has a payment agreement in place and incurs an additional debt to the PHA:

Additional amounts owed by the family will be added to the existing payment agreement.

If a payment agreement is in arrears more than 30 days, any new debts must be paid in full.

F. OWNER DEBTS TO THE PHA [24 CFR 982.453(b)]

If the PHA determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the PHA may reclaim the amounts from future housing assistance or claim payments owed the owner for any units under contract.

If future housing assistance or claim payments are insufficient to reclaim the amounts owed, the PHA will:

Enter into a payment agreement with the owner for the amount owed.

Pursue collections through the local court system.

Restrict the owner from future participation.

G. WRITING OFF DEBTS

If debts need to be written off, the following criteria must be met:

The debtor's whereabouts are unknown and the debt is more than 2 years old.

A determination is made that the debtor is judgment proof.

The debtor is deceased.

The debtor is confined to an institution indefinitely or for more than 2 years.

The amount is less than \$100 and the debtor cannot be located.

Chapter 19

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the PHA. This chapter describes the policies, procedures and standards to be used when families disagree with a PHA decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the PHA to ensure that all families have the benefit of all protections due to them under the law.

A. COMPLAINTS TO THE PHA

The PHA will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The PHA does require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

The PHA hearing procedures will be provided to families in the briefing packet.

Categories of Complaints

Complaints from families: If a family disagrees with an action or inaction of the PHA or owner.

Complaints from families will be referred to the Section 8 Assistant Manager. If a complaint is not resolved, it will be referred to Section 8 Manager.

Complaints from owners: If an owner disagrees with an action or inaction of the PHA or a family.

Complaints from owners will be referred to Section 8 Manager.

Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Section 8 Manager or Section 8 Assistant Manager immediately.

Complaints from the general public: Complaints or referrals from persons in the community in regard to the PHA, a family or an owner.

Complaints from the general public will be referred to the Section 8 Manager or Section 8 Assistant Manager. If a complaint is not resolved, it will be referred to Executive Director.

B. PREFERENCE DENIALS

When the PHA denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with PHA staff to discuss the reasons for the denial and to dispute the PHA's decision.

The person who conducts the meeting will be any officer or employee of the PHA including the person who made the decision.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS

[24 CFR 982.54(d)(12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the HAP contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the PHA determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

The reason(s) they are ineligible,

The procedure for requesting a review if the applicant does not agree with the decision and

The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The PHA must provide applicants with the opportunity for an informal review of decisions denying:

Qualification for preference

Listing on the PHA's waiting list

Issuance of a voucher

Participation in the program

Assistance under portability procedures

Informal reviews are not required for established policies and procedures and PHA determinations such as:

Discretionary administrative determinations by the PHA

General policy issues or class grievances

A determination of the family unit size under the PHA subsidy standards

Refusal to extend or suspend a voucher

A PHA determination not to grant approval of the tenancy

Determination that unit is not in compliance with HQS

Determination that unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request for an informal review must be received in writing by the close of the business day, no later than 10 days from the date of the PHA's notification of denial of assistance. The informal review will be scheduled within 30 days from the date the request is received.

The informal review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person.

The review may be conducted by any officer or employee of the PHA including the person who made the decision.

The applicant will be given the option of presenting oral or written objections to the decision. Both the PHA and the family may present evidence and witnesses. The family may use an attorney or other representative to assist them at their own expense.

A notice of the review findings will be provided in writing to the applicant within 30 days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES [24 CFR 982.555(a-f), 982.54(d)(13)]

When the PHA makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. The PHA will give the family prompt notice of such determinations which will include:

The proposed action or decision of the PHA

The date the proposed action or decision will take place

The family's right to an explanation of the basis for the PHA's decision

The procedures for requesting a hearing if the family disputes the action or decision

The time limit for requesting the hearing

When terminating assistance for criminal activity as shown by a criminal record, the PHA will provide the subject of the record and the tenant/participant with a copy of the criminal record upon which the decision to terminate was based.

The PHA must provide participants with the opportunity for an informal hearing for decisions related to any of the following PHA determinations:

Determination of the family's annual or adjusted income and the computation of the housing assistance payment

Appropriate utility allowance used from schedule

Family unit size determination under PHA subsidy standards

Determination to terminate assistance for any reason

Determination to terminate a family's FSS contract, withhold supportive services, or propose forfeiture of the family's escrow account

The PHA must always provide the opportunity for an informal hearing before termination of assistance.

Informal hearings are not required for established policies and procedures and PHA determinations such as:

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 or suspension of a voucher term

A PHA determination not to approve a unit or lease

A PHA determination that an assisted unit is not in compliance with HQS (PHA must provide hearing for family breach of HQS because that is a family obligation determination)

A PHA determination that the unit is not in accordance with HQS because of the family size

A PHA determination to exercise or not exercise any right or remedy against the owner under a HAP contract

Notification of Hearing

It is the PHA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the PHA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the PHA receives a request for an informal hearing, a hearing shall be scheduled within 30 days. The notification of hearing will contain:

The date and time of the hearing

The location where the hearing will be held

The family's right to bring evidence, witnesses, legal or other representation at the family's expense

The right to view any documents or evidence in the possession of the PHA upon which the PHA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than 10 days before the hearing date.

A notice to the family that the PHA will request a copy of any documents or evidence the family will use at the hearing. Requests for such documents or evidence must be received no later than 10 days before the hearing date.

The PHA's Hearing Procedures

After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the PHA within 24 hours, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to the PHA's determination.

- Examine the documents in the file which are the basis for the PHA's action, and all documents submitted to the Hearing Officer;

- Copy any relevant documents at their expense;

- Present any information or witnesses pertinent to the issue of the hearing;

- Request that PHA staff be available or present at the hearing to answer questions pertinent to the case; and

- Be represented by legal counsel, advocate, or other designated representative at their own expense.

If the family requests copies of documents relevant to the hearing, by appointment only, the PHA will make the copies for the family and assess a charge of \$.25 per copy. In no case will the family be allowed to remove the file from the PHA's office.

In addition to other rights contained in this Chapter, the PHA has a right to:

- Present evidence and any information pertinent to the issue of the hearing;

- Be notified if the family intends to be represented by legal counsel, advocate, or another party;

- Examine and copy any documents to be used by the family prior to the hearing;

- Have its attorney present; and

- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the Hearing Officer appointed by the PHA who is neither the person who made or approved the decision, nor a subordinate of that person. The PHA appoints hearing officers who are PHA management and/or managers from other PHAs.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The family may request the right to audio record the hearing, if desired, five days prior to the hearing date, and must provide a copy to the PHA.

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the PHA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the PHA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the hearing findings shall be provided in writing to the PHA and the family within 30 days and shall include:

- A clear summary of the decision and reasons for the decision;

- If the decision involves money owed, the amount owed;

- The date the decision goes into effect.

The PHA is not bound by hearing decisions:

- Which concern matters in which the PHA is not required to provide an opportunity for a hearing

- Which conflict with or contradict to HUD regulations or requirements;

- Which conflict with or contradict Federal, State or local laws; or

- Which exceed the authority of the person conducting the hearing.

The PHA shall send a letter to the participant if it determines the PHA is not bound by the Hearing Officer's determination within 30 days. The letter shall include the PHA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

E. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR Part 5, Subpart E]

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

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 PHA hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, the PHA notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the PHA either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the PHA a copy of the appeal and proof of mailing or the PHA may proceed to deny or terminate. The time period to request an appeal may be extended by the PHA for good cause.

The request for a PHA hearing must be made within fourteen days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within fourteen days of receipt of that notice.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the PHA will:

Deny the applicant family

Defer termination if the family is a participant and qualifies for deferral

Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the PHA will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.

Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.

Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of tenant rent and Total Tenant Payment.

Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24 CFR 982.204, 982.552(c)]

When applicants are denied placement on the waiting list, or the PHA is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

Examples of mitigating circumstances are

A person with a cognitive disorder may not have understood the requirement to report increases in income,

A person may not understand the need to make regular repayments on a promissory note,

Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

Chapter 20

SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The PHA will not set aside any program funding for special housing types, or for a special housing type.

Verification of Need for Reasonable Accommodation

Acceptable documentation as verification of the need for reasonable accommodation would be a letter to the PHA describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by Section 8 Manager and a written response stating approval or disapproval will be sent to the applicant/participant within 30 days of receipt of the request.

Example: A second bedroom need for rehabilitation equipment.

A. SINGLE ROOM OCCUPANCY [24 CFR 982.602]

HUD has determined that there is not a demand for SROs in this area. Therefore, a single person may not reside in an SRO housing unit at this time.

There are no SROs in the PHA's jurisdiction at this time.

The PHA will use a separate lease and housing assistance payment contract for each assisted person residing in a SRO. [24 CFR 982.603]

SRO Rent and Housing Assistance Payment [24 CFR 982.604]

Pre-merger Regular Certificate Program

The payment standard for SRO housing is 75 percent of the zero bedroom FMR.

Voucher Program

The PHA SRO payment standard is 75 percent of the zero bedroom payment standard schedule. For a person residing in an exception area the payment standard is 75 percent of the HUD-approved zero bedroom exception payment standard amount. While an assisted person resides in SRO housing, the SRO payment standard must be used to calculate the housing assistance payment.

Utility Allowance

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero bedroom utility allowance.

Housing Quality Standards

The PHA will ensure that all SRO units approved for the program are in compliance with all of the Housing Quality Standards for SROs as regulated in 24 CFR 982.605.

B. CONGREGATE HOUSING [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit.

The PHA may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The PHA will 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.

Congregate Housing Lease and HAP Contract [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the PHA payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard amount.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

Housing Quality Standards

The PHA will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

C. GROUP HOMES [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the PHA, a live-in aide may reside 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. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The PHA will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

Group Home Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any PHA-approved live-in Aide.

Group Home Rent and HAP Contract [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent the PHA will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy

Unless there is a live-in aide, the family unit size is one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard amount on the PHA payment standard schedule for the group home size.

Utility Allowance

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

Housing Quality Standards

The PHA will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

D. SHARED HOUSING [24 CFR 982.615]

Occupancy

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

The PHA may approve a live-in aide to reside with a family in order to care for a person with a disability. 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.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the PHA. However, housing assistance may not be paid on behalf of an owner. The PHA will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

Rent and HAP Contract

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

Maximum Subsidy

For a family that resides in a shared housing unit the payment standard is the lower of the payment standard amount on the PHA payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the PHA payment standard for the shared housing unit size.

If the PHA approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

Housing Quality Standards

The PHA will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

E. COOPERATIVE HOUSING [24 CFR 982.619]

The PHA will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The PHA will not approve assistance for a family in cooperative housing until the PHA has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Section 8 limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The PHA may approve a live-in aide to reside with the family to care for a person with disabilities. The PHA will 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. If the PHA approves a live-in aide, the live-in aide will be counted when determining the family unit size.

Housing Quality Standards

The PHA will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by 24 CFR 982.401.

F. MANUFACTURED HOMES [24 CFR 982.620]

The PHA will permit a family to lease a manufactured home and space with assistance under the program. The PHA will not provide assistance for a family that owns the manufactured home and leases only the space.

The PHA may approve a live-in aide to reside with a family to care for a person with disabilities. The PHA will approve a live-in aide if needed as a reasonable accommodation so that the program is accessible to and usable by persons with disabilities. If the PHA approves a live-in aide, the live-in aide must be counted when determining the family unit size.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

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.

A manufactured 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 wind overturning and sliding.

Reasonable Rent

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the PHA.

The PHA will not approve a lease for a manufactured home space until the PHA has determined that the initial rent to owner for the space is a reasonable rent. At least annually during the assisted tenancy, the PHA will redetermine that the rent is reasonable.

The PHA will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The PHA will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the PHA, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rental of comparable spaces in the same manufactured home park or elsewhere. If requested by the PHA, the owner must provide the PHA information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623]

HAP for the Voucher Tenancy

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40 percent of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of:

The payment standard minus the total tenant payment; or

The rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The space rent is the sum of the following as determined by the PHA:

Rent to owner for the manufactured home space;

Owner maintenance and management charges for the space;

The utility allowance for tenant paid utilities.

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

The PHA will establish utility allowances for manufactured home space rental. For the first twelve months of the initial lease term only, the allowances will include a reasonable amount for utility hook-up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

G. HOMEOWNERSHIP [24 CFR 982.625]

General

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family.

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.

The PHA may make homeownership available to all who qualify, or restrict homeownership to families or purposes defined by the PHA. The PHA may also limit the number of families assisted with homeownership.

The PHA may provide homeownership assistance in the form of monthly payments, or as a

down payment assistance grant. The PHA may choose to offer either or both forms, or may choose not to offer homeownership assistance. If the PHA offers both forms of assistance, the family chooses which form to receive.

The PHA must offer either form of assistance if necessary as a reasonable accommodation. However, the PHA may determine that homeownership assistance is not a reasonable accommodation if the PHA has otherwise opted not to implement a homeownership program.

A family may receive only one form of homeownership assistance. A family that includes a person who was an adult member of a family that previously received either form of homeownership assistance may not receive the other form from any PHA.

Monthly Homeownership Assistance Payments

The PHA will offer the monthly homeownership assistance option to all applicant and participant families who meet the eligibility requirements listed below.

The PHA will offer monthly homeownership assistance only to participating families who:

- Are currently enrolled in the Family Self-Sufficiency (FSS) Program and in compliance with the FSS contract.

- Are graduates of the PHA's Family Self-Sufficiency FSS program.

The PHA will limit monthly homeownership assistance to a maximum of 50 families at any given time.

Monthly Homeownership Assistance: Eligibility Requirements [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance.

- The family must be eligible for the Housing Choice Voucher program.

- The family must qualify as a first-time homeowner, or may be a co-operative member.

- 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.

- 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.

The PHA may establish a higher income standard for disabled families and/or for non-

disabled 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.

The family must meet the Federal minimum employment requirement.

At least one adult family member who will own the home must be currently employed full time and must have been continuously employed for one year prior to homeownership assistance.

HUD regulations define "full time employment" as not less than an average of 30 hours per week.

A family member will be considered to have been continuously employed even if that family member has experienced a break in employment, provided that the break in employment has been the only break within the past 12 calendar months.

The Federal minimum employment requirement does not apply to elderly or disabled families.

Any family member who was an adult member of a family that previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future homeownership assistance.

The PHA will impose the following additional initial requirements:

The family has had no family-caused violations of HUD's Housing Quality standards within the last year.

The family is not within the initial one year period of a HAP Contract.

The family does not owe money to the PHA.

The family has not committed any serious or repeated violations of a PHA-assisted lease within the past year.

Homeownership Counseling Requirements [24 CFR 982.630]

When the family has been determined eligible, they must attend and complete homeownership counseling sessions. These counseling sessions will be conducted by PHA staff and HUD-**approved** housing counseling agencies. Such counseling shall be consistent with HUD-approved housing counseling.

The following topics will be included in the homeownership counseling sessions:

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 preapprovals, 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 the PHA 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 about RESPA, state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

Eligible Units [24 CFR 982.628]

The unit must meet 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 was already existing or under construction at the time the family was determined eligible for homeownership assistance.

The unit is a one-unit property or a single dwelling unit in a cooperative or condominium.

The unit has been inspected by the PHA and by an independent inspector designated by the family.

The unit meets HUD Housing Quality Standards.

The unit may be a home where the family will not own fee title to the real property (such as a manufactured home), if the home has a permanent foundation and the family has the right to occupy the site for at least 40 years.

The PHA must not approve the seller of the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation. The PHA may disapprove the seller for any reason provided for disapproval of an owner in the voucher program.

PHA Search and Purchase Requirements [24 CFR 982.629]

The PHA has established the maximum time that will be allowed for a family to locate and purchase a home.

The family's deadline date for locating a home to purchase will be 120 calendar days from the date the family's eligibility for the homeownership option is determined.

The family must obtain financing for the home within 120 calendar locating a home to purchase.

The family must purchase the home within 120 calendar days of locating a home to purchase.

The PHA will require periodic reports on the family's progress in finding and purchasing a home. Such reports will be provided by the family at intervals of 30 days.

If the family is unable to purchase a home within the maximum time limit, the PHA will place the family's name on the waiting list for a voucher.

Inspection and Contract [24 CFR 982.631]

The unit must meet Housing Quality Standards, and must also be inspected by an independent professional inspector selected and paid by the family.

The independent inspection must cover major building systems and components. The inspector must be qualified to identify physical defects and report on property conditions, including major building systems and components. These systems and components include, but are not limited to:

Foundation and structure;

Housing interior and exterior;

Roofing;

Plumbing, electrical and heating systems.

The independent inspector must not be a PHA employee or contractor. The PHA will not require the family to use an independent inspector selected by the PHA, but the PHA has established the following standards for qualification of inspectors selected by the family.

Copies of the independent inspection report will be provided to the family and the PHA. Based on the information in this report, the family and the PHA will determine whether any pre-purchase repairs are necessary.

The PHA may disapprove the unit for homeownership assistance because of information in the report.

The family must enter into a contract of sale with the seller of the unit. A copy of the contract must be given to the PHA. The contract of sale must specify the price and terms of sale, and provide that the purchaser will arrange for a pre-purchase independent inspection of the home. The contract must also:

Provide that the purchaser is not obligated to buy the unit unless the inspection is satisfactory;

Provide that the purchaser is not obligated to pay for necessary repairs; and

Contain the seller's certification that he or she has not been debarred, suspended or subject to a limited denial of participation.

Financing [24 CFR 982.632]

The family is responsible for securing financing. The PHA has established financing requirements, listed below, and may disapprove proposed financing if the PHA determines that the debt is unaffordable.

Continued Assistance [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. The family or lender is not required to refund homeownership assistance for the month when the family moves out.

The family must comply with the following obligations:

The family must comply with the terms of the 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 CFR 982.551 (h) and (i).

The family must supply information to the PHA or HUD as specified in 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 family must notify the PHA before moving out of the home.

The family must notify the PHA if the family defaults on the mortgage used to purchase the home.

No family member may have any ownership interest in any other residential property.

The family must attend and complete ongoing homeownership counseling.

The home must pass a HUD Housing Quality Standards inspection.

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.

Maximum Term of Homeownership Assistance [24 CFR 982.634]

Except in the case of elderly or disabled families, the maximum term of homeownership assistance is:

15 years, if the initial mortgage term is 20 years or longer, or

10 years in all other cases.

The elderly exception only applies if the family qualified as elderly at the start of homeownership assistance. The disabled exception applies if, at any time during receipt of homeownership assistance, the family qualifies as disabled.

If the family ceases to qualify as elderly or disabled during the course of homeownership assistance, the maximum term becomes applicable from the date assistance commenced. However, such a family must be afforded at least six months of homeownership assistance after the maximum term becomes applicable.

If the family receives homeownership assistance for different homes, or from different PHAs, the total is subject to the maximum term limitations.

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 PHA will pay the homeownership assistance payment to the family or to the lender at the discretion of the PHA].

Some homeownership expenses are allowances or standards determined by the PHA in accordance with HUD regulations. These allowances are used in determining expenses for all homeownership families and are not based on the condition of the home.

Homeownership expenses include:

- Principal and interest on mortgage debt.

- Mortgage insurance premium.

- Taxes and insurance.

- The PHA utility allowance used for the voucher program.

- The PHA allowance for routine maintenance costs.

- The PHA allowance for major repairs and replacements.

- Principal and interest on debt for improvements.

The PHA does not recommend cooperative or condominium housing choices because they also include operating expenses or maintenance fees assessed by the homeowner association which could be a burden on a first time homeowner.

Portability [24 CFR 982.636, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and in Chapter 13 of this plan, the 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 receiving PHA arranges for housing counseling and the receiving PHA's homeownership policies apply.

Moving With Continued Assistance [24 CFR 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA prohibits more than one move by the family during any one year period.

The PHA will deny permission to move with continued rental or homeownership assistance if the PHA determines that it does not have sufficient funding to provide continued assistance.

The PHA will require the family to complete additional homeownership counseling prior to moving to a new unit with continued assistance under the homeownership option.

Denial or Termination of Assistance [24 CFR 982.638]

Termination of homeownership assistance is governed by the policies for the Housing Choice Voucher program contained in chapter 15 of the Administrative Plan. However, the provisions of CFR 982.551 (c) through (j) are not applicable to homeownership.

The PHA will terminate homeownership assistance if the family is dispossessed from the home due to a judgment or order of foreclosure.

The PHA will permit such a family to move with continued voucher rental assistance. However, rental assistance will be denied 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, and

The family has moved, or will move, within the period required by HUD.

The PHA will terminate homeownership assistance if the family violates any of the family obligations contained in this section.

The PHA will terminate homeownership assistance if the family violates any of the following family obligations:

Transfer or conveyance of ownership of the home;

Providing requested information to the PHA or HUD;

Notifying the PHA before moving out of the home.

Downpayment Assistance Grants (24 CFR 982.643)

Most of the regulations governing monthly homeownership assistance apply to down payment assistance grants. However, families receiving down payment assistance are not subject to the regulations concerning continued assistance, family obligations, the maximum term of assistance, amount and distribution of payments, or moves with continued assistance.

Eligibility for down payment assistance is limited to current participants in the voucher program.

The maximum down payment assistance grant is the PHA's payment standard minus the family's TTP, multiplied by 12.

Down payment assistance must be applied to the down payment for purchase of the home. The PHA may allow the grant to be applied to reasonable and customary closing costs as defined by

the PHA. If the family purchases a home with FHA mortgage insurance, closing costs are subject to FHA requirements.

The down payment assistance grant must be applied to the down payment for the home and the following closing costs:

- Loan origination fees

- Credit report fees

- Escrow fees

- Title insurance fees

- Recording fees

- Appraisal reports

- Survey fees

- Any legitimate closing cost fees as determined by a realtor or lender

Pilot Program for Homeownership Assistance for Disabled Families [CFR 982.642]

The PHA has the option of offering assistance under the pilot program instead of, or in addition to, the homeownership assistance described in this section. Most of the regulations governing homeownership assistance apply to the pilot program.

Eligibility: the family must meet the definition of "disabled family." The family is not required to meet the low-income requirement, but annual income cannot exceed 99% of the area median. The family must not be a current homeowner and must close on the home within 3 years of July 23, 2001. The family need not meet the definition of "first-time homeowner."

Homeownership Assistance Payments: Payments are calculated as described in this section. A low-income family receives the full assistance payment. A family whose annual income is between 81% and 89% of area median receives 66% of the assistance payment. A family whose annual income is between 90% and 99% of area median receives 33% of the assistance payment. The PHA must make payments to the lender.

Mortgage Defaults: The PHA may permit the family to move with continued homeownership assistance if the default is due to catastrophic medical reasons or to the impact of a federally declared disaster.

The PHA will not offer homeownership assistance under the pilot program for disabled families at this time.

To the extent applicable, the PHA's policies for homeownership assistance apply to families participating in the pilot program.

GLOSSARY

A. ACRONYMS USED IN SUBSIDIZED HOUSING

AAF	Annual Adjustment Factor. A factor published by HUD in the Federal Register which is used to compute annual rent adjustment.
ACC	Annual Contributions Contract
BHA	Bethlehem Housing Authority
BMIR	Below Market Income Restricted
BOCA	Building Officials and Code Administrators
BR	Bedroom
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations. Commonly referred to as "the regulations". The CFR is the compilation of Federal rules which are first published in the Federal Register and define and implement a statute.
CPI	Consumer Price Index. CPI is published monthly by the Department of Labor as an inflation indicator.
EOHP	Equal Opportunity Housing Plan
ELI	Extremely low income
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration
FICA	Federal Insurance Contributions Act - Social Security taxes
FmHA	Farmers Home Administration
FMR	Fair Market Rent
FY	Fiscal Year
FYE	Fiscal Year End
GAO	Government Accounting Office
GFC	Gross Family Contribution. Note: Has been replaced by the term Total Tenant

	Payment (TTP).
GR	Gross Rent
HAP	Housing Assistance Payment
HAP Plan	Housing Assistance Plan
HC	Handicapped
HCDA	Housing and Community Development Act
HQS	Housing Quality Standards
HUD	The Department of Housing and Urban Development or its designee.
HURRA	Housing and Urban/Rural Recovery Act of 1983; resulted in most of the 1984 HUD regulation changes to definition of income, allowances, rent calculations
IG	Inspector General
IGR	Independent Group Residence
IPA	Independent Public Accountant
IRA	Individual Retirement Account
MSA	Metropolitan Statistical Area established by the U.S. Census Bureau
OFTO	Over Fair Market Rent Tenancy Option
PHA	Public Housing Agency
PHR	PA Human Relations
PMSA	A Primary Metropolitan Statistical Area established by the U.S. Census Bureau
PS	Payment Standard
QC	Quality Control
RAP	Rental Assistance Payment
RFAT	Request for Approval of Tenancy
RFP	Request for Proposals
RRP	Rental Rehabilitation Program

SEMAP	Section Eight Management Assessment Program
SRO	Single Room Occupancy
SS	Social Security
SSD	Social Security Disability
SSI	Social Security Supplemental Income
SSMA	Standard Statistical Metropolitan Area. Has been replaced by MSA, Metropolitan Statistical Area.
SWICA	State Wage Information and Collection Agency
TASS	Tenant Assessment Sub-System
TR	Tenant Rent
TTP	Total Tenant Payment
UA	Utility Allowance
UIV	Up-front Income Verification
URP	Utility Reimbursement Payment
WN	Work Number

B. GLOSSARY OF TERMS IN SUBSIDIZED HOUSING

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

ADMINISTRATIVE PLAN. The HUD required written policy of the PHA governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and a copy submitted to HUD as a supporting document to the PHA Plan.

ABSORPTION. In portability, 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.

ACC RESERVE ACCOUNT (FORMERLY "PROJECT RESERVE"). Account established by HUD from amounts by which the maximum payment to the PHA under the consolidated ACC (during a PHA fiscal year) exceeds the amount actually approved and paid. This account is used as the source of additional payments for the program.

ACTUAL INCOME FROM ASSETS. The interest produced by the household's savings and checking accounts, dividends earned by stocks and bonds, rents and royalties received from real property and income derived from other capital investments.

ADA. Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

ADJUSTED INCOME. Annual income, less allowable HUD deductions.

ADMINISTRATIVE FEE. Fee paid by HUD to the PHA for administration of the program.

ADMINISTRATIVE FEE RESERVE (Formerly "Operating reserve"). Account established by PHA from excess administrative fee income. The administrative fee reserve must be used for housing purposes.

ADMISSION. The effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program. This is the point when the family becomes a participant in the program.

ALLOWANCE FOR DEPENDENTS. \$480 deduction for each family member who is not the head or the spouse, and who is under 18 years of age (17 years or less), a full-time student aged 18 years or older, or handicapped, or disabled.

ALLOWANCE FOR HANDICAPPED ASSISTANCE. Amount of handicapped assistance expenses for care attendants or auxiliary apparatus which exceeds 3% of Annual Income. Care must be necessary to enable an adult family member to work. Allowance cannot exceed amount earned.

ALLOWANCE FOR MEDICAL EXPENSES. The amount of total medical expenses which exceeds 3% of Annual Income. Allowance is for elderly households only.

ANNUAL BUDGET AUTHORITY. The maximum annual payment by HUD to a PHA for a funding increment.

ANNUAL CONTRIBUTIONS CONTRACT (ACC). A written contract between HUD and a PHA. Under the contract HUD agrees to provide funding for operation of the program, and the PHA agrees to comply with HUD requirements for the program

ANNUAL INCOME. The anticipated total Annual 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.

ANNUAL INCOME AFTER ALLOWANCES. The Annual Income (described above) less the HUD-approved allowances.

APPLICANT. (or applicant family). A family that has applied for admission to a program, but is not yet a participant in the program.

"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 DISPOSED OF FOR LESS THAN FAIR MARKET VALUE. The cash value of net family assets which were disposed of for less than fair market value during the two year period preceding certification or re-certification calculated as the difference between the cash value and the amount the family received; not counted for BMIR tenants, not considered if total cash value of assets disposed of for less than Fair Market Value is less than \$1,000; or if the difference between the cash value and the amount the family receives is less than \$1,000.

ASSISTANCE PAYMENT. The HUD-paid portion of the rent. Same as the Tenant Assistance Payment of Housing Assistance Payment.

ASSISTED TENANT. A tenant who pays less than the market rent as defined in the regulations. Includes tenants receiving rent supplement, Rental Assistance Payments, or Section 8 assistance and all other 236 and 221 (d)(3) BMIR tenants, except those paying the 236 market rent or 120% of the BMIR rent, respectively.

BASIC RENT. The minimum rent paid by tenants receiving Section 236 assistance. This HUD-approved rent is designed to cover the owner's actual costs of operating the unit, including any approval profit. This is a subsidized rent because HUD provides assistance to reduce the owner's interest expenses.

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.

CERTIFICATE. A Certificate issued by the PHA under the Section 8 pre-merger certificate program, declaring a family to be eligible for participation in this program and stating the terms and conditions for such participation. Will no longer be issued after October 1, 1999.

CERTIFICATE PROGRAM. Pre-merger rental certificate program.

CHILD CARE EXPENSES. Amounts paid by the family for the care of minors under 13 years of age where such care is necessary to enable a family member to be employed or for a household member to further his/her education.

CO-HEAD. An individual in the household who is equally responsible for the lease with the Head of Household. (A family never has a Co-head and a Spouse and; a Co-head is never a Dependent).

COMMON SPACE. In shared housing: Space available for use by the assisted family and other occupants of the unit.

CONGREGATE HOUSING. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing.

CONSOLIDATED ANNUAL CONTRIBUTIONS CONTRACT. (Consolidated ACC). See 24 CFR 982.151.

CONTIGUOUS MSA. In portability, 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 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

CONTRACT RENT. The rent due the owner from both HUD and the tenant. It includes the HUD-approved 236 Basic, BMIR and Rent Supplement rents and the Section 8 Contract Rent.

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.

DEPENDENT. A member of the family household (excluding foster children) other than the family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a full-time student 18 years of age or over. A \$480 allowance is provided for each family member who is a dependent.

DISABILITY ASSISTANCE EXPENSE. Anticipated costs for care attendants and auxiliary apparatus for disabled family members which enable a family member (including the disabled family member) to work.

DISABLED FAMILY. A family whose head, spouse, or sole member is a person with disabilities; or 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.

DISPLACED PERSON/FAMILY (for eligibility). A person or family 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 under federal disaster relief laws.

DOMICILE. The legal residence of the household head or spouse as determined in accordance with State and local law. P.O. Box numbers are not acceptable, other than for post-tenant use.

DRUG-RELATED CRIMINAL ACTIVITY. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell distribute or use, of a controlled substance (as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)).

DRUG TRAFFICKING. The illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

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, spouse, or sole member is a person who is at least 62 years of age; or 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 HOUSEHOLD. A family whose head or spouse or whose sole member is at least 62 years of age; may include two or more elderly persons living together or one or more such persons living with another person who is determined to be essential to his/her care and wellbeing.

ELDERLY HOUSEHOLD DEDUCTION. \$400 allowance for each elderly household. Only one deduction per eligible household.

ELDERLY PERSON. A person who is at least 62 years old.

ELIGIBILITY INCOME. May 10, 1984, regulations deleted Eligibility Income, per se, because Annual Income is now for eligibility determination to compare to income limits.

ELIGIBLE FAMILY (Family). A family is defined by the PHA in the administrative Plan, which is approved by HUD.

EXCEPTIONAL MEDICAL OR OTHER EXPENSES. Prior to the regulation change in 1982, this meant medical and/or unusual expenses as defined in Part 889 which exceeded 25% of the Annual Income. It is no longer used.

EXCEPTION RENT. In the pre-merger certificate program, an initial rent (contract rent plus any utility allowance) in excess of the published FMR. See FMR/Exception rent.

EXCESS MEDICAL EXPENSES. Any medical expenses incurred by elderly or disabled families only in excess of 3% of Annual Income which are not reimbursable from any other source.

EXTREMELY LOW-INCOME FAMILY. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30% of medical income for an area if HUD finds such variations are necessary due to unusually high or low family incomes.

FAIR HOUSING ACT. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.)

FAIR MARKET RENT (FMR). The rent including the cost of utilities (except telephone) that would be required to be paid in the housing market area to obtain privately owned existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities. Fair market rents for existing housing are established by HUD for housing units of varying sizes (number of bedrooms) and are published in the *Federal Register*.

FAMILY. "Family" includes but is not limited to:

A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

An elderly family;

A near-elderly family;

A displaced family

The remaining member of a tenant family; and

A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Commonly used definition: Two or more persons sharing residency whose income and resources are available to meet the family's needs and who are related by blood, marriage or operation of law (or who give evidence of a stable relationship which has existed over a period of time).

FAMILY OF VETERAN OR SERVICE PERSON. A family is a "family of veteran or service person" when:

The veteran or service person (a) is either the head of household or is related to the head of the household; or (b) is deceased and was related to the head of the household, and was a family member at the time of death.

The veteran or service person, unless deceased, is living with the family or is only temporarily absent unless s/he was (a) formerly the head of the household and is permanently absent because of hospitalization, separation, or desertion, or is divorced; provided, the family contains one or more persons for whose support s/he is legally responsible and the spouse has not remarried; or (b) not the head of the household but is permanently hospitalized; provided, that s/he was a family member at the time of hospitalization and there remain in the family at least two related persons.

FAMILY RENT TO OWNER. In the voucher program, the portion of the rent to owner paid by the family.

FAMILY SELF-SUFFICIENCY PROGRAM (FSS PROGRAM). The program established by a PHA to promote self-sufficiency of assisted families, including the provision of supportive services.

FAMILY SHARE. The amount calculated by subtracting the housing assistance payment from the gross rent.

FAMILY UNIT SIZE. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA's subsidy standards.

FMR/EXCEPTION RENT. The fair market rent published by HUD headquarters. In the pre-merger certificate program the initial contract rent for a dwelling unit plus any utility allowance could not exceed the FMR/exception rent limit (for the dwelling unit or for the family unit size). In the voucher program the PHA adopts a payment standard schedule that is within 90% to 110% of the FMR for each bedroom size.

FOSTER CHILD CARE PAYMENT. 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).

FUNDING INCREMENT. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

GROSS FAMILY CONTRIBUTION. Changed to Total Tenant Payment.

GROSS RENT. The sum of the Rent to Owner and the utility allowance. If there is no utility allowance, Rent to Owner equals Gross Rent.

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).

HANDICAPPED (for eligibility). A person having a physical or mental impairment which:

is expected to be of long or indefinite duration;

substantially impedes his or her ability to live independently; and

is of such a nature that the person's ability to live independently could be improved by more suitable housing conditions.

HANDICAPPED ASSISTANCE EXPENSES. Costs of care attendants and auxiliary apparatus for handicapped and disabled family members. Costs for both care attendants and auxiliary apparatus must directly enable the handicapped person or other family member to work.

HAP CONTRACT. (See Housing Assistance Payments contract.)

HEAD OF HOUSEHOLD. The head of household is the person who assumes legal and financial responsibility for the household and is listed on the application as head.

HOUSING AGENCY. A state, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing. ("PHA" and "HA" mean the same thing.)

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. Act in which the U.S. Housing Act of 1937 (sometimes referred to as the Act) was recodified, and which added the Section 8 Programs.

HOUSING ASSISTANCE PAYMENT. The monthly assistance payment by a PHA. The total assistance payment consists of:

A payment to the owner for rent to owner under the family's lease.

An additional payment to the family if the total assistance payment exceeds the rent to owner. The additional payment is called a "utility reimbursement" payment.

HOUSING ASSISTANCE PAYMENTS CONTRACT. (HAP contract). A written contract between a PHA and an owner in the form prescribed by HUD headquarters, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HOUSING ASSISTANCE PLAN. (1) A Housing Assistance Plan submitted by a local government participating in the Community Development Block Program as part of the block grant application, in accordance with the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and

approved by HUD. (2) A Housing Assistance Plan meeting the requirements of 570.303(c) submitted by a local government not participating in the Community Development Block Grant Program and approved by HUD.

HOUSING QUALITY STANDARDS (HQS). The HUD minimum quality standards for housing assisted under the tenant-based programs.

HUD. The Department of Housing and Urban Development.

HUD PASSBOOK RATES. The passbook interest rate used to compute income from assets. HUD passbook rate is determined by each HUD Field Office.

HUD REQUIREMENTS. HUD requirements for the Section 8 programs. HUD requirements are issued by HUD headquarters as regulations. Federal Register notices or other binding program directives.

IMPUTED ASSET. Asset disposed of for less than Fair Market Value during two years preceding examination or reexamination.

IMPUTED INCOME. HUD passbook rate x total cash value of assets. Calculation used when 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.

INDIAN. Any person recognized as an Indian or Alaska native by an Indian tribe, the federal government, or any State.

INDIAN HOUSING AUTHORITY (IHA). A housing agency established either by exercise of the power of self-government of an Indian Tribe, independent of State law, or by operation of State law providing specifically for housing authorities for Indians.

INITIAL PHA. In portability, the term refers to both:

A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and

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.

INTEREST REDUCTION SUBSIDIES. The monthly payments or discounts made by HUD to reduce the debt service payments and, hence, rents required on Section 236 and 221 (d)(3) BMIR projects. Includes monthly interest reduction payments made to mortgagees of Section 236 projects and front-end loan discounts paid on BMIR projects.

JURISDICTION. The area in which the PHA has authority under State and local law to administer the program.

LANDLORD. This term means either the owner of the property or his/her representative or the managing agent or his/her representative, as shall be designated by the owner.

LARGE VERY LOW INCOME FAMILY. Prior to the 1982 regulations, this meant a very low income family which included six or more minors. This term is no longer used.

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. In cooperative housing, a written agreement between a cooperative and a member of the cooperative. The agreement establishes the conditions for occupancy of the member's family with housing assistance payments to the cooperative under a HAP contract between the cooperative and the PHA.

LEASE ADDENDUM. For pre-merger Certificate, pre-merger OFTO, and pre-merger Voucher tenancies, the lease language required by HUD in the lease between the tenant and the owner.

LIVE-IN AIDE. A person who resides with an elderly, disabled or handicapped person and who:

Is essential to the care and well-being of the person(s);

Is not obligated for the support of the person(s); and

Would not be living in the unit except to provide the necessary supportive services.

A Live-in-Aide may be a relative. A Live-in-Aide is not party to the lease and his/her income is not considered in computing annual income, allowances and assistance.

LOCAL PREFERENCE. A preference used by the PHA to select among applicant families.

LOW-INCOME FAMILY. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 80% for areas with unusually high or low income families.

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

MARKET RENT. The rent HUD authorizes the owner of FHA insured/subsidized multi-family housing to collect from families ineligible for assistance. For unsubsidized units in an FHA-insured multi-family project in which a portion of the total units receive project-based rental assistance, under the Rental Supplement or Section 202/Section 8 Programs, the Market Rate Rent is that rent approved by HUD and is the Contract Rent for a Section 8 Certificate holder. For BMIR units, Market Rent varies by whether the project is a rental or cooperative.

MATERIAL NON-COMPLIANCE. One or more substantial violations of the lease, including non-payment of rent and/or utilities or repeated minor violations of the lease which disrupt the livability of the building, affect the health or safety of any person, abridge the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building, or have an adverse financial effect on the building. This includes violent criminal activity, including drug-related criminal activity.

MEDICAL EXPENSES. Those total 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% of Annual Income.

MERGER DATE. October 1, 1999.

MINOR. A member of the family household (excluding foster children) other than the family head or spouse who is under 18 years of age.

MIXED FAMILY. A family with citizens and eligible immigration status and without citizens and eligible immigration status as defined in 24 CFR 5.504(b)(3)

MONTHLY ADJUSTED INCOME. 1/12 of the Annual Income after Allowances or Adjusted Income.

MONTHLY INCOME. 1/12 of the 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.

NEGATIVE RENT. Now called Utility Reimbursement. A negative Tenant Rent results in a Utility Reimbursement Payment (URP).

NET FAMILY ASSETS. Value of equity in savings, checking, IRA and Keogh accounts, real property, stocks, bonds, and other forms of capital investment. The value of necessary items of personal property such as furniture and automobiles is excluded from the definition. For all programs except BMIR, any asset disposed of for less than Fair Market Value within the prior two years is also counted. (See definition of Assets Disposed Of For Less Than Fair Market Value.)

NET FAMILY CONTRIBUTION. Former name for Tenant Rent.

NON CITIZEN. A person who is neither a citizen nor a national of the United States.

OCCUPANCY STANDARDS. [Now referred to as **Subsidy Standards**] Standards established by a PHA to determine the appropriate number of bedrooms for families of different sizes and compositions.

OVER-FMR TENANCY (OFTO). In the pre-merger Certificate program: A tenancy for which the initial gross rent exceeds the FMR/exception rent limit.

OWNER. Any persons or entity having the legal right to lease or sublease a unit to a participant.

PARTICIPANT. A family that has been admitted to the PHA's 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. A person who has a disability as defined in 42 U.S.C 423 or a developmental disability as defined in 42 U.S.C. 6001. Also includes a person who is determined, under HUD regulations, to have a physical or mental impairment that is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions. For purposes of reasonable accommodation and program accessibility for persons with disabilities, means an "individual with handicaps" as defined in 24 CFR 8.3. Definition does not exclude persons who have AIDS or conditions arising from AIDS, but does not include a person whose disability is based solely on drug or alcohol dependence (for low-income housing eligibility purposes).

PHA PLAN. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD in accordance with part 903 of this chapter.

PORTABILITY. Renting a dwelling unit with Section 8 tenant-based assistance outside the jurisdiction of the initial PHA.

POST-1981 UNIVERSE. Section 8 units with Housing Assistance Payments Contracts effective on or after October 1, 1981 (Section 8 units only)

PRE-1981 UNIVERSE. Section 8 units with Housing Assistance Payments Contracts effective before October 1, 1981.

PREMISES. The building or complex in which the dwelling unit is located, including common areas and grounds.

PRIVATE SPACE. In shared housing: The portion of a contract unit that is for the exclusive use of an assisted family.

PROCESSING ENTITY. Entity responsible for making eligibility determinations and for income reexaminations. In the Section 8 Program, the "processing entity" is the "responsible entity."

PROGRAM. The Section 8 tenant-based assistance program under 24 CFR Part 982.

PROGRAM RECEIPTS. HUD payments to the PHA under the consolidated ACC, and any other amounts received by the PHA in connection with the program.

PROJECT. Buildings which are located on adjacent sites and managed as one project, even if they have separate mortgages and/or project numbers.

PROJECT-BASES SUBSIDY. (24CFR 983) Assistance to the project in the form of a subsidized mortgage interest rate or low interest direct loan. A project-based subsidy allows the owner to charge a lower rent. The Section 236 and 221 (d)(3) BMIR programs have project-based subsidies. Projects with project-based subsidies may also have tenant-based subsidies (such as Section 8) for some of their units.

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). PHA includes any State, county, municipality or other governmental entity or public body which is authorized to administer the program (or an agency or instrumentality of such an entity), or any of the following:

A consortia of housing agencies, each of which meets the qualifications in paragraph (1) of this definition, that HUD determines has the capacity and capability to efficiently administer the program (in which case, HUD may enter into a consolidated ACC with any legal entity authorized to act as the legal representative of the consortia members):

Any other public or private non-profit entity that was administering a Section 8 tenant-based assistance program pursuant to a contract with the contract administrator of such program (HUD or a PHA) on October 21, 1998; or

For any area outside the jurisdiction of a PHA that is administering a tenant-based program, or where HUD determines that such PHA is not administering the program effectively, a private non-profit entity or a governmental entity or public body that would otherwise lack jurisdiction to administer the program in such area.

REASONABLE RENT. A rent to owner that is not more than rent charged for comparable units in the private unassisted market, and not more than the rent charged for comparable unassisted units in the premises.

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. There are annual and interim recertifications.

REGULAR TENANCY. In the pre-merger certificate program: A tenancy other than an over-FMR tenancy.

REMAINING MEMBER OF TENANT FAMILY. Person left in assisted housing after other family members have left and become unassisted.

RENT TO OWNER. The total monthly rent payable to the owner under the lease for the unit. 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 ("residency preference area").

RESIDENCY PREFERENCE AREA. The specified area where families must reside to qualify for a residency preference.

RESIDENT ASSISTANT. A person who lives in an Independent Group Residence and provides on a daily basis some or all of the necessary services to elderly, handicapped, and disabled individuals receiving Section 8 housing assistance and who is essential to these individuals' care or wellbeing. A Resident Assistant shall not be related by blood, marriage or operation of law to individuals receiving Section 8 assistance nor contribute to a portion of his/her income or resources towards the expenses of these individuals.

RESPONSIBLE ENTITY. For the public housing and Section 8 tenant-based assistance, project-based certificate assistance and moderate rehabilitation program, 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 (42 U.S.C. 1437f).

SECURITY DEPOSIT. A dollar amount which can be applied to unpaid rent, damages or other amounts to the owner under the lease.

SERVICE PERSON. A person in the active military or naval service (including the active reserve) of the United States.

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.

SINGLE PERSON. A person living alone or intending to live alone.

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 24 CFR 982, which 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 husband or wife of the head of the household.

SUBSIDIZED PROJECT. A multi-family housing project (with the exception of a project owned by a cooperative housing mortgage corporation or association) which receives the benefit of subsidy in the form of:

Below-market interest rates pursuant to Section 221(d)(3) and (5) or interest reduction payments pursuant to Section 236 of the National Housing Act; or

Rent supplement payments under Section 101 of the Housing and Urban Development Act of 1965; or

Direct loans pursuant to Section 202 of the Housing Act of 1959; or

Payments under the Section 23 Housing Assistance Payments Program pursuant to Section 23 of the United States Housing Act of 1937 prior to amendment by the Housing and Community Development Act of 1974;

Payments under the Section 8 Housing Assistance Payments Program pursuant to Section 8 of the United States Housing Act after amendment by the Housing and Community Development Act unless the project is owned by a Public Housing Agency;

A Public Housing Project.

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.

SUBSTANDARD UNIT. Substandard housing is defined by HUD for use as a federal preference.

SUSPENSION/TOLLING. Stopping the clock on the term of a family's voucher, for such period as determined by the PHA, from the time when the family submits a request for PHA approval to lease a unit, until the time when the PHA approves or denies the request. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension.

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 ASSISTANCE PAYMENT. The monthly amount HUD pays toward tenant's rent and utility costs; is equal to the difference between the Gross Rent and the Total Tenant Payment (TTP); includes the Rent Supplement, RAP and Section 8 regular monthly payments. (Same as the Assistance Payment or Housing Assistant Payment.)

TENANT-BASED SUBSIDY. Housing Assistance paid to the project owner on behalf of an individual tenant. The level of subsidy for a tenant is the difference between the Gross Rent for the unit and the Total Tenant Payment (TTP). Section, Rent Supplement and RAP are tenant-based subsidies.

TENANT DAMAGES. Physical damage to the tenant's unit caused by negligence or willful abuse on the part of the tenant or tenant's guest.

TENANT RENT. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing). For a tenancy in the pre-merger certificate program, tenant rent equals the total tenant payment minus any utility allowance.

THIRD PARTY. An employer, public agency or physician or other individual or entity who can verify data provided by an applicant.

TOTAL TENANT PAYMENT (TTP). The total amount the HUD rent formula requires the tenant to pay toward gross rent and utility allowance.

UNIT. Residential space for the private use of a family.

UNUSUAL EXPENSES. Prior to the change in the 1982 regulations, this was the term applied to the amounts paid by the family for the care of minors under 13 years of age or for the care of disabled or handicapped family household members, but only where such care was necessary to enable a family member to be gainfully employed.

UTILITIES. Utilities means water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection and sewage services. Telephone service is not included as a utility.

UTILITY ALLOWANCE. If the cost of utilities (except telephone) including range and refrigerator, and other housing services for an assisted unit is not included in the Contract 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 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 healthy living environment.

UTILITY REIMBURSEMENT. In the voucher program, the portion of the housing assistance payment which exceeds the amount of the rent to owner.

UTILITY REIMBURSEMENT PAYMENT. In the pre-merger certificate program, the amount, if any, by which the Utility Allowance for the unit, if applicable, exceeds the Total Tenant Payment for the family occupying the unit.

VACANCY LOSS PAYMENTS. (For pre-merger certificate contracts effective prior to 10/2/95) When a family vacates its unit in violation of its lease, the owner is eligible for 80% of the Contract Rent for a vacancy period of up to one additional month, (beyond the month in which the vacancy occurred) if s/he notifies the PHA as soon as s/he learns of the vacancy, makes an effort to advertise the unit, and does not reject any eligible applicant except for good cause.

VERY LARGE LOWER-INCOME FAMILY. Prior to the change in the 1982 regulations this was described as a lower-income family which included eight or more minors. This term is no longer used.

VERY LOW INCOME FAMILY. A Lower-Income Family whose Annual Income does not exceed 50% 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% 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 pre-merger certificate and voucher programs.

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.

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 (rental voucher). A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states the 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 subsidy 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, child care or other services for working families. FOR THE FSS PROGRAM (984.103(b)), "welfare assistance" includes only cash maintenance payments from Federal or State programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or Social Security.

WELFARE RENT. This concept is used ONLY for pre-merger Certificate tenants who receive welfare assistance on an "AS-PAID" basis. It is not used for the Housing Voucher Program.

If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities, NOT the amount the family is receiving at the time the certification or recertification is being processed.

If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow.

WELFARE-TO-WORK (WTW) FAMILIES. Families assisted by a PHA with voucher funding awarded to the PHA under the HUD welfare-to-work voucher program (including any renewal of such WTW funding for the same purpose).

C. GLOSSARY OF TERMS USED IN THE NONCITIZENS RULE

CHILD. A member of the family other than the family head or spouse who is under 18 years of age.

CITIZEN. A citizen or national of the United States.

EVIDENCE OF CITIZENSHIP OR ELIGIBLE STATUS. The documents which must be submitted to evidence citizenship or eligible immigration status.

HEAD OF HOUSEHOLD. The adult member of the family who is the head of the household for purpose of determining income eligibility and rent.

HUD. Department of Housing and Urban Development.

INS. The U.S. Immigration and Naturalization Service.

MIXED FAMILY. A family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status.

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.

NONCITIZEN. A person who is neither a citizen nor national of the United States.

PHA. A housing authority who operates Public Housing.

RESPONSIBLE ENTITY. The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status (the PHA).

SECTION 214. Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a).

SPOUSE. Spouse refers to the marriage partner, either a husband or wife, who is someone you need to divorce in order to dissolve the relationship. It includes the partner in a common-law marriage. It does not cover boyfriends, girlfriends, significant others, or "co-heads." "Co-head" is a term recognized by some HUD programs, but not by public and Indian housing programs.

Reserved

PROGRAM INTEGRITY ADDENDUM

[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD) conservatively estimates that 600 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families either are totally ineligible or are receiving benefits that exceed their legal entitlement.

The PHA is committed to assuring that the proper level of benefits is paid to all participating families and that housing resources reach only income-eligible families so that program integrity can be maintained.

The PHA will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This chapter outlines the PHA's policies for the prevention, detection, and investigation of program abuse and fraud.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Under no circumstances will the PHA undertake an inquiry or an audit of a participating family arbitrarily. The PHA's expectation is that participating families will comply with HUD requirements, provisions of the voucher, and other program rules. The PHA staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the PHA has a responsibility to HUD, the community, and eligible families in need of housing assistance to monitor participants and owners for compliance and, when indicators of possible abuse come to the PHA's attention, to investigate such claims.

The PHA will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

Referrals, Complaints, or Tips. The PHA will follow up on referrals received by mail, by telephone, or in person from other agencies, companies or persons alleging that a family is in noncompliance with or otherwise violating the family obligations or any other program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be retained in the family's file.

Internal File Review. A follow-up will be made if PHA staff discovers (as a function of

a certification or recertification, an interim redetermination, or a quality control review) information or facts that conflict with previous file data, the PHA's knowledge of the family, or statements made by the family.

Verification of Documentation. A follow-up will be made if the PHA receives independent verification or documentation that conflicts with representations in the family's file (such as public record information or reports from credit bureaus or other agencies).

B. STEPS THE PHA WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The PHA management and staff will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

Things You Should Know (HUD-1140-OIG). This program integrity bulletin (created by HUD's inspector general) will be furnished and explained to all applicants to promote understanding of program rules and to clarify the PHA's expectations for cooperation and compliance.

Program Orientation Session. Mandatory orientation sessions will be conducted by the PHA staff for all prospective program participants, either prior to or upon issuance of a voucher.

Resident Counseling. The PHA will routinely provide participant counseling as a part of every re-certification interview in order to clarify any confusion pertaining to program rules and requirements.

Review and Explanation of Forms. Staff will explain all required forms and review the contents of all (re)certification documents prior to signature.

Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

Participant Certification. All family representatives will be required to sign a participant certification form.

C. STEPS THE PHA WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The PHA staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

Quality Control File Reviews. Prior to initial certification and at the completion of all

subsequent re-certifications, 5% will be reviewed. At a minimum, such reviews shall examine:

- Verification of all income and deductions
- Changes in reported Social Security numbers or dates of birth
- Authenticity of file documents
- Ratio between reported income and expenditures
- Consistency of signatures with previously signed file documents
- Dates and signatures on all documents

Observation. The PHA management and occupancy staff (to include inspection personnel) will maintain high awareness of circumstances that may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.

Observations will be further documented in the family's file and reported to the Section 8 Manager for investigation.

Public Record Bulletins. These bulletins may be reviewed by management and staff.

State Wage Data Record Keepers. Inquiries to state wage and employment record-keeping agencies, as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits.

Credit Bureau Inquiries. Credit bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:

At the time of application

When an allegation is received by the PHA wherein unreported income sources are disclosed

When a participant's expenditures exceed his/her reported income and no plausible explanation is given

For all addition(s) to household (any family member 18 years of age and older)

D. THE PHA'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The PHA staff will encourage all participating families to report suspected abuse to Section 8 Manager, Section 8 Assistant Manager and/or any other Section 8 Staff. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints, and tips will be carefully

evaluated to determine whether they warrant follow-up. The PHA will not follow up on allegations that are vague or otherwise nonspecific. They will only review allegations that contain one or more independently verifiable facts.

File Review. An internal file review will be conducted to determine whether the subject of the allegation is a client of the PHA and, if so, whether or not the information reported has been previously disclosed by the family.

The PHA will then determine whether it is the most appropriate authority to do a follow-up (as compared to police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there are facts contained in the allegation that conflict with file data and that are independently verifiable, the Section 8 Manager will initiate an investigation to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If a landlord has been overpaid as a result of fraud, misrepresentation, or violation of the HAP contract, the PHA may terminate the contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

F. HOW THE PHA WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the PHA determines that an allegation or referral warrants follow-up, either the staff person who is responsible for the file or a person designated by the executive director to monitor program compliance will conduct the investigation. The steps taken will depend upon the nature of the allegation and may include the items listed below. In all cases, the PHA will secure the written authorization from the program participant for the release of information.

Credit Bureau Inquiries. In cases involving previously unreported income sources, a credit bureau inquiry may be made to determine whether the financial activity of a family conflicts with the family's reported income.

Verification of Credit. In cases where the financial activity conflicts with file data, a verification of credit form may be mailed to the creditor to determine the source of unreported income.

Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages that may have been previously undisclosed or misreported.

Neighbors/Witnesses. Neighbors and/or other witnesses who are believed to have direct or

indirect knowledge of facts pertaining to the PHA's review may be interviewed.

Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

Public Records. The PHA will review any relevant public records kept in a jurisdictional courthouse. Examples of public records that may be checked are real estate records, marriage and divorce records, uniform commercial code financing statements, voter registration rolls, judgments, court or police records, state wage records, utility records, and postal records.

Interviews with Head of Household or Family Members. The PHA will discuss the allegation (or details thereof) with the head of household or family members by scheduling an appointment at the appropriate PHA office. A high standard of courtesy and professionalism will be maintained by the PHA staff person who conducts such interviews. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.

G. PLACEMENT OF DOCUMENTS, EVIDENCE, AND STATEMENTS OBTAINED BY THE PHA

Documents and other evidence obtained by the PHA during the course of an investigation will be considered "work product" and will be kept either in the participant's file or in a separate "work file." In either case, the participant's file or work file will be kept in a locked file cabinet. Such cases under review will be discussed only among PHA staff who are involved in the process or have information that may assist in the investigation.

H. CONCLUSION OF THE PHA'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the executive director or designee. It will then be determined whether the facts are inconclusive and, if so, whether a violation has or has not occurred.

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the PHA will review the facts to determine:

What type of violation has occurred (procedural noncompliance or fraud)

Whether the violation was intentional or unintentional

What amount of money (if any) is owed by the family

Whether the family is eligible for continued occupancy

J. ACTION PROCEDURES FOR VIOLATIONS THAT HAVE BEEN DOCUMENTED

Once a program violation has been documented, the PHA will propose the most appropriate remedy based upon the type and severity of the violation.

1. **Procedural Noncompliance.** This category applies when the family "fails to" observe a procedure or requirement of the PHA but does not misrepresent a material fact and there are no retroactive assistance payments owed by the family.

Examples of noncompliance violations are:

Failure to appear at a prescheduled appointment

Failure to return verification in the time period specified by the PHA

- (a) **Warning Notice to the Family.** In such cases a notice containing the following will be sent to the family:

A description of the noncompliance and the procedure, policy, or obligation that was violated

The date by which the violation must be corrected or the procedure complied with

The action that will be taken by the PHA if the procedure or obligation is not complied with by the date specified by the PHA

The consequences of repeated (similar) violations

2. **Procedural Noncompliance - Overpaid Assistance.** When the family owes money to the PHA for failure to report changes in income or assets, the PHA will issue a notice of overpayment of assistance. This notice will contain the following:

A description of the violation and the date(s)

The amount owed to the PHA

The number of days within which a response must be received

Acknowledgment of the family's right to disagree and to request an informal hearing along with instructions for requesting such a hearing

- (a) Participant Fails to Comply with PHA's Notice. If the Participant fails to comply with the PHA's notice and a family obligation has been violated, the PHA will initiate termination of assistance.

- (b) Participant Complies with PHA's Notice. When a family complies with the

PHA's notice, the staff person responsible will meet with him/her to explain and discuss the family obligation or program rule that was violated. The staff person will complete a participant counseling report, give one copy to the family, and retain a copy in the family's file.

- 3. Intentional Misrepresentations.** When a participant falsifies, misstates, omits, or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the PHA, the PHA will evaluate whether or not:

The participant had knowledge that his/her actions were wrong

The participant willfully violated the family obligations or the law

Knowledge. This will be evaluated by determining whether the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, the briefing certificate, and the personal declaration are adequate to establish knowledge of wrongdoing.

Willful Intent. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation
- (b) Repetition of the misrepresentation
- (c) Use of a false name or Social Security number
- (d) Admissions of the illegal action or omission by the participant to others
- (e) Omission of material facts known to the participant (e.g., employment of the participant or other household member)
- (f) Falsification, forgery or altering of documents
- (g) Uttering and certifying to statements at an interim (re)determination that are later independently verified to be false

- 4. Dispositions of Cases Involving Misrepresentations.** In all cases of misrepresentations involving efforts to recover monies owed, the PHA may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- (a) Criminal Prosecution. If the PHA has established criminal intent and the case meets the criteria for prosecution, the PHA will:

Refer the case to the local state or district attorney, notify HUD's regional inspector general for investigation (RIGI), and terminate rental assistance.

(b) Administrative Remedies. The PHA will:

Terminate assistance and demand restitution in full

Terminate assistance and execute an administrative repayment agreement in accordance with the PHA's repayment policy

Permit continued assistance at the correct level and execute an administrative repayment agreement in accordance with the PHA's repayment policy

5. **The Case Conference for Serious Violations and Misrepresentations.** When the PHA has established that a material misrepresentation has occurred, a case conference will be scheduled with the family representative and the PHA staff person who is most knowledgeable about the circumstances of the case.

This conference will take place prior to any proposed action by the PHA. The purpose of such a conference is to review the information and evidence obtained by the PHA with the participant and to give the participant an opportunity to explain any document findings that conflict with representations in the family's file. Any documents or mitigating circumstances presented by the family will be taken into consideration by the PHA. The family will be given 10 days to furnish any mitigating evidence.

A secondary purpose of the case conference is to assist the PHA in determining the course of action most appropriate for the case. Prior to the final determination of the proposed action, the PHA will consider:

The duration of the violation

The number of false statements

The family's ability to understand the rules

The family's willingness to cooperate and to accept responsibility for the family's actions

The amount of money involved

The family's history

The presence or absence of criminal intent

6. **Notification to Participant of Proposed Action.** The PHA will notify the family of the proposed action no later than 30 days after the case conference by certified mail.

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**BETHLEHEM HOUSING AUTHORITY
HOUSING CHOICE VOUCHER PROGRAM
ADMINISTRATIVE PLAN AMENDMENT**

PET AND ASSISTANCE/SERVICE ANIMAL POLICY

The lease used for a Housing Choice Voucher Program holder is between the landlord and the tenant. The landlord has a right to prohibit pets.

The Bethlehem Housing Authority will ensure that any individual who requests an assistance/service animal due to a reasonable accommodation be permitted by the landlord to have an assistance/service animal.

The tenant shall be required to provide a medical statement that an assistance/service animal is necessary.

The assistance/service animal shall not be considered a pet.

No security deposit may be requested for an assistance/service animal.

Under NO circumstances shall an animal or an assistance/service animal that has been trained for fighting be permitted.

All assistance/service animals must be licensed and inoculated annually.

Tenant is responsible for keeping both the inside and outside of the property in a clean and sanitary condition in accordance with the City of Bethlehem Housing Codes.

(Amended 7/14/09)

BETHLEHEM HOUSING AUTHORITY

MINIMUM RENT/HARDSHIP EXEMPTION POLICY

Minimum Rent

As required by 24 CFR 5.630 of the Federal Register, the BHA must charge a family no less than a minimum monthly rent of \$50.

Financial Hardship Exemption From Minimum Rent

The BHA must grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship as described below:

- When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non-citizen 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;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; and,
- Other circumstances determined by the BHA or HUD.

If a family requests a financial hardship exemption, the BHA must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until the BHA determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

The BHA must promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

If the BHA determines that a qualifying financial hardship is temporary, the BHA must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the BHA must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the BHA, for the amount of back rent owed by the family.

If the BHA determines there is no qualifying financial hardship exemption, the BHA must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by BHA.

If the BHA determines a qualifying financial hardship is long term, the BHA must exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

The financial hardship exemption only applies to payment of the minimum rent (as determined pursuant to 24 CFR 5.628(a)(4) and 24 CFR 5.630 of the Federal Register), and not to the other elements used to calculate the total tenant payment (as determined pursuant to 24CFR 5.628(a)(1), (a)(2) and (a)(3) of the Federal Register.

(Rev 6/04)