DETROIT HOUSING COMMISSION

Binder2

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# DHC FY 2023 ANNUAL PLAN

# CFP FY 2023 5-YEAR ACTION PLAN

# FINAL

# CONTENT Part 2

1. Housing Choice Voucher (HCV) Administrative Plan

2. Admissions and Continued Occupancy Policy (ACOP)

3. LIPH Dwelling Lease

4. DHC Crime Initiatives

# HVC ADMIN PLAN

DETROIT HOUSING COMMISSION

# HOUSING CHOICE VOUCHER AND SECTION 8 PROGRAMS

# ADMINISTRATION PLAN

# PROPOSED 2023

**Presented to the DHC RAB January 30, 2023**

**NOTE: Any HUD regulations, Interim Rules, Final Rules, PIH Notices, etc., published and implemented by HUD prior and/or subsequent to adoption of this Administrative Plan ("Admin Plan") that conflict with this Admin Plan will supersede what is noted in the Admin Plan, and will be enforced accordingly.**

EQUAL HOUSING OPPORTUNITY

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# CHAPTER 1

# OVERVIEW OF THE PROGRAM AND ADMINISTRATIVE PLAN

## Introduction

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which re-codified the U. S. Housing Act of 1937. The act has been amended from time to time, and its requirements, as they apply to the Housing Choice Voucher (HCV) Program and the Project-Based Voucher Program, or the Moderate Rehabilitation Program are described in and implemented through this Administrative Plan (Admin Plan).

Administration of the Housing Programs shall be in accordance with the Department of Housing and Urban Development's (HUD) regulations as well as applicable Federal, State, and local laws.

The Detroit Housing Commission (DHC) receives its funding for the Housing Programs from HUD. DHC is not a federal department or agency. DHC is a public housing agency (PHA) that is a public body corporate, created and authorized by state law to develop and operate housing and housing programs for low-income families.

DHC enters into an Annual Contributions Contract (ACC) with HUD to administer the Housing Programs on behalf of HUD. DHC must ensure compliance with Federal laws, regulations and notices and must establish policy and procedures to clarify federal requirements and to ensure consistency in operation of the Housing Programs.

This chapter contains information about DHC and its Housing Programs with emphasis on the HCV Program.

### RULES AND REGULATIONS

There are three parts to this chapter:

**Part I: DHC.** This part includes a description of DHC's jurisdiction and its mission.
**Part II: The HCV Program**. This part contains information about the HCV Program's operation, roles and responsibilities, and partnerships.
**Part III: The HCV Administrative Plan. This part discusses the purpose and organization of the plan and its revision requirements.**

## PART I: DHC

### 1-1A. DHC'S JURISDICTION

The HCV Program is funded by the federal government and administered by DHC. Its jurisdiction is the Detroit Metropolitan Statistical Area defined as Lapeer, Macomb, Oakland, St. Clair, and Wayne counties except as may be otherwise approved by agreements with the PHAs in those counties.

### 1-1 B. DHC'S MISSION

"The Detroit Housing Commission will effectively and efficiently develop, manage, and preserve quality affordable housing.

- Develop and maintain community partnerships
- Promote high quality customer service
- Sustain sound fiscal management
- Ensure Operational sustainability"

### 1-1 C. DHC'S HOUSING PROGRAMS

This Admin Plan is applicable to the operation of the HCV Program and the Project-Based Voucher Program and the Moderate Rehabilitation (Mod Rehab) Program. Project-Based Voucher are the same as those for the Housing Choice Voucher Program unless otherwise noted in this Administrative Plan.

## PART II: THE HCV PROGRAM

### 1-2 A. HCV PROGRAM BASICS

The purpose of the HCV Program is to provide rental assistance to eligible families. The rules and regulations of the HCV Program are determined by HUD. DHC is afforded choices in the operation of the HCV Program that are included in DHC's Admin Plan. The HCV Program offers mobility to eligible families because they may search for suitable housing anywhere in DHC's jurisdiction and may also be eligible to move under portability to another PHA's jurisdiction. When a family is determined to be eligible for the HCV Program and funding is available, DHC will issue the family a housing voucher.

When the family finds a suitable housing unit and funding is available, DHC will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

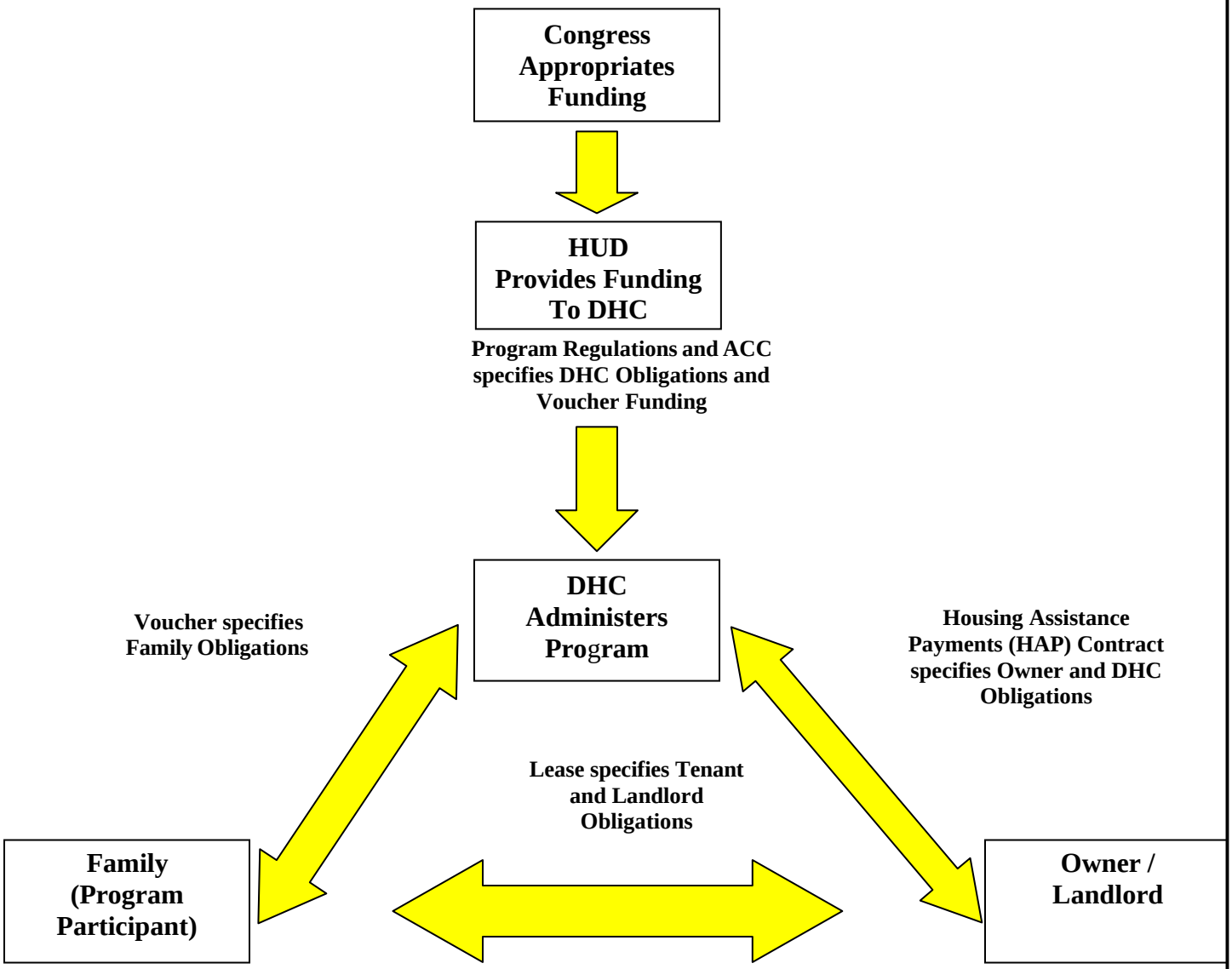
Even though DHC may determine a family is eligible for the HCV Program, the owner has the responsibility of approving the family as a suitable renter. DHC will continue to make payments to the owner as long as the family is eligible, and the housing unit continues to qualify under the HCV Program.

## 1-2 B. HCV PARTNERSHIPS

To administer the HCV Program, DHC enters into a contractual relationship with HUD via the ACC. DHC also enters into contractual relationships with the assisted family via the voucher and the owner or landlord of the housing unit via the Housing Assistance Payments (HAP) Contract. For the HCV Program to work and be successful, all parties involved – HUD, DHC, the owner, and the family – have important roles to play. The roles and responsibilities of all parties are defined in federal regulations and in legal documents that parties execute to participate in the HCV Program.

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

**The HCV Relationships: Program regulations and the ACC specify DHC's Obligations and Voucher Funding.**



1. What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices, and other guidance toimplement HCV Program legislation passed by Congress.
- Allocate HCV Program funds to DHC.
- Provide technical assistance to DHC on interpreting and applying HCV Program requirements; and
- Monitor DHC's compliance with HCV Program requirements and DHC's performance in HCV Program administration.

2. What does DHC do?

DHC administers the HCV Program and has the following major responsibilities:

- Establish local policies.
- Review applications from interested applicant families to determine applicant eligibility.
- Maintain waiting list and select families for admission.
- Issue voucher to selected family and, if necessary, assist the family in finding a place to live.
- Publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis.
- Publicize the opening of its waiting list and the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable print media.
- Conduct outreach to owners.
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy.
- Make timely housing assistance payments to the owner.
- Ensure that families and their rental units continue to qualify under the HCV Program.
- Ensure that owners and families comply with HCV Program rules.
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, DHC's Admin Plan, and other applicable federal, state, and local laws.

3. Controlling Authority of Federal Requirements

All issues related to Section 8 not addressed in this Admin Plan are governed by federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. If this Admin Plan conflicts with applicable law and/or HUD regulations, the applicable law and/or HUD regulations will supersede this Admin Plan.

4. Owner Outreach [24 CFR 982.54(d) (5), 982.153]

DHC will make a concerted effort to keep private owners informed of legislative changes in the HCV Program, which are designed to make the HCV Program more attractive to owners. DHC desires owners of decent, safe, and sanitary housing units to lease to HCVfamilies. To ensure greater mobility and housing choice, DHC will maintain and periodically update a list of interested landlords/list of units available for the HCV Program within its jurisdiction.

The list of available units will be readily available for applicant briefings and participants searching for housing. DHC will highlight properties located in <10% de-concentrated areas as a means of notifying HCV Program applicants and participants of their housing choices in these areas.

DHC will actively recruit property owners with property located outside areas of poverty or minority concentration, and if applicable, will grant or apply for exception Payment Standards to make housing located outside of areas with high poverty and minority concentration available. Additionally, DHC will periodically evaluate the distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted.

DHC will conduct annual meetings with participating owners and prospective landlords to improve relations and to recruit new participating owners via Landlord Workshops. Newsletters and printed materials will be offered to acquaint owners and property managers with opportunities available under the HCV Program, as well as on DHC's Landlord Portal on DHC's website at www.dhcmi.org.

DHC shall periodically:

- Develop working relationships with owners and property managers.
- 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 displaced families.
- Explain the HCV Program, including equal opportunity requirements and non-discrimination requirements to property managers, property owners, and other groups that have dealings with low-income families or are interested in housing such families.

5. What does the Owner do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if they will be good tenants. DHC can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
- The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the HAP Contract executed with DHC.
- Comply with all applicable fair housing laws and discriminate against no one.
- Maintain the housing unit by making necessary repairs in a timely manner; and
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

6. What does the Family do?

The family has the following major responsibilities:

- Provide DHC with complete and accurate information as determined by DHC to be necessary for administration of the HCV Program.
- Make their best and most timely efforts to find a place to live that is suitable for them and that qualifies for the HCV Program.
- Cooperate in attending all appointments scheduled by DHC.
- Allow DHC to inspect the unit at reasonable times and after reasonable notice.
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family.
- Comply with the terms of the lease with the owner.
- Comply with the family obligations of the voucher.
- Not commit serious or repeated violations of the lease.
- Not engage in drug-related or violent criminal activity.
- Notify DHC and the owner before moving or terminating the lease.
- Use the assisted unit only as a residence and as the sole residence of the family.
- Not sublet the unit, assign the lease.
- Not have any interest in the unit.
- Promptly notify DHC of any changes in family composition; and
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing programs.

**PART III: THE ADMIN PLAN**

## 1-3 A. OVERVIEW AND PURPOSE OF THE ADMIN PLAN

The Admin Plan is required by HUD. The purpose of the Admin Plan is to establish policies for carrying out the Housing Programs, primarily the HCV Program, in a manner consistent with HUD requirements and local goals and objectives contained in DHC's Annual Plan. This Admin Plan is a supporting document to DHC's Annual Plan and is available for public review as required by CFR 24 Part 903.

This Admin Plan defines DHC's local policies for operation of the Housing Programs, in the context of federal laws and regulations.

## 1-3 B. CONTENTS OF THE ADMIN PLAN (24CFR 982.54)

HUD regulations contain a list of what must be included in the Admin Plan. DHC's Admin Plan must cover DHC policies on these subjects:

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

- Policies concerning payment by a family to DHC of amounts the family owes DHC.
- Interim re-determinations of family income and composition.
- Restrictions, if any, on the number of moves by a participant family.
- What approval is required to charge the administrative fee reserve.
- Procedural guidelines and performance standards for conducting required housing quality standards inspections; and
- Screening of applicants for family behavior or suitability for tenancy.

## 1-3C. UPDATING AND REVISING THE ADMIN PLAN

DHC will review and may update the Admin Plan periodically due to program changes and/or updates to reflect changes in regulations, DHC operations, or when needed to ensure staff consistency in operation.

# CHAPTER 2

# FAIR HOUSING AND EQUAL OPPORTUNITY

## INTRODUCTION

This chapter describes HUD regulations and DHC's policies related to these topics in three parts:

**Part I: Non-discrimination.** This part presents the body of laws and regulations governing the responsibilities of DHC regarding non-discrimination.
**Part II: Policies Related to Persons with Disabilities.** This part discusses the rules and policies of the Housing Programs, in general, and the HCV Program in particular related to reasonable accommodation for persons with disabilities.
**Part III: Prohibition of Discrimination Against Limited English Proficiency Persons.** This part details the obligations of DHC to ensure meaningful access to the Housing Programs and their activities by persons with limited English proficiency (LEP).

## PART I: NON-DISCRIMINATION

### 2-1 A. OVERVIEW

DHC will treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. DHC will not discriminate in housing or services on the basis of race, color, religion, sex, national origin, ancestry, age, familial status, handicap and disability, marital status, gender identity, or sexual orientation (called "protected classes"). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

DHC will comply fully with all federal, state, and local non-discrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964.
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988).
- Executive Order 11063.
- Section 504 of the Rehabilitation Act of 1973.
- The Age Discrimination Act of 1975.
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern).
- The Violence Against Women Reauthorization Act of 2013.

- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register*, February 3, 2012.
- Any applicable state laws or local ordinances; and
- Any federal, state, or local legislation protecting individual rights of tenants, orapplicants.

In applying conflicting federal, state, or local laws, the federal law shall prevail.

## 2-1 B. NON-DISCRIMINATION

DHC will not use any of the protected class factors, unless permitted under the applicable regulations or laws, to:

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

1. Providing Information to Families and Owners

DHC will take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, DHC will provide information to HCV Program families about the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301]. To further its commitment to comply with applicable civil rights laws, DHC will provide information to HCV voucher holders regarding discrimination and any recourse available to them if they are victims of discrimination. Such information shall be made available during the family briefing session. Furthermore, DHC will advise all families at the briefing to report suspected discrimination to DHC and HUD.

The Housing Assistance Payments (HAP) Contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, ancestry, age, familial status, handicap, disability, marital status, gender identity, or sexual orientation in connection with the HAP Contract.

2. Discrimination Complaints

Applicants or participants who believe that they have been subject to unlawful discrimination may notify DHC either orally or in writing. DHC will attempt to remedy discrimination complaints made against DHC. DHC will provide contact information to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

## PART II: POLICIES RELATED TO PERSONS WITH DISABIILTIES

## 2-2 A. OVERVIEW

DHC will ensure that persons with disabilities have full access to DHC's programs and services. Families will be informed at briefings and during the annual re-examination of the family of their rights under Section 504.

DHC will ask all applicants and participants if they require any type of accommodations, in writing, on eligibility and continued eligibility documents, and on any notices of adverse action by DHC, by including the following language:

> "If you or anyone in your family is a person with disabilities and you require a specific accommodation in order to fully utilize our programs or services, please contact DHC."

**DHC shall verify, on an annual basis, the continuing need of a participant for any granted accommodation.**

Illegal Inquiries (24 CFR § 100.202) – The Fair Housing Act makes it unlawful for a housing provider to:

- Ask if an applicant for a dwelling has a disability or if a person intending to reside in a dwelling or anyone associated with an applicant or resident has a disability; or
- Ask about the nature or severity of a disability of such persons.

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 DHC's facilities are inaccessible to or unusable by persons with disabilities.

Posters and housing information will be displayed in locations throughout DHC's office in such a manner as to be easily readable from a wheelchair. DHC offices will be accessible to persons with disabilities.

## 2-2 B. DEFINITION OF REASONABLE ACCOMMODATION

1. Verification of eligibility for DHC programs and benefits for persons with disabilities.

DHC will verify that an applicant qualifies as a person with a disability before granting the $400 rent calculation deduction, disability expense allowance, or deduction for un-reimbursed medical expenses. Applicants and participants cannot be compelled to reveal that they have a disability; however, if they do not, they cannot receive any of the benefits that such status confers. DHC's policy is to ask all applicants whether they wish to claim disability status and/or require a specific accommodation to access DHC's programs and services.

2. Verification of disability and need for requested reasonable accommodation(s).

To verify that an applicant is a person with a disability, DHC staff should first check to see whether the applicant is under age 62 and receives either Social Security Disability Income (SSDI) or Supplemental Security Income (SSI). Receipt of such disability income is sufficient verification that an individual qualifies as a person with a disability. However, individuals with disabilities who do not receive SSDI, or SSI may still qualify asa person with a disability under the statutory definitions of disability. In these cases, the individual with a disability may need to provide supporting documentation.

If a person requests a reasonable accommodation, then DHC may need to verify that the person is a qualified individual with a disability and whether a requested accommodation is necessary to provide the individual with an equal opportunity to use or enjoy a dwelling unit, including the public and common areas. In doing so, DHC should only ask for information that is actually necessary to verify that the person has a disability and that there is a reasonable nexus between the individual's disability and the requested accommodation(s**). DHC is not permitted to inquire about the nature or severity of the person's disability.**

Further, DHC staff may never inquire about an individual's specific diagnosis or details of treatment. If DHC receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment and/or information regarding the nature or severity of the person's disability, DHC will immediately dispose of this confidential information; this information is not to be

maintained in the individual's file. DHC should not request an applicant's or participant's medical records, nor should DHC require that applicants or participants submit to physical examinations or medical tests as a condition of admission or continued program participation.

*3. Reasonable Modification to Existing Premises (24 CFR § 100.203)*

Reasonable Modification applies to private owners participating in the HCV Programs. Under the Fair Housing Act, it is unlawful for an owner to refuse to permit a person with a disability, at their own expense, to make reasonable modifications of existing premises occupied or about to be occupied by a person with a disability if such modification may be necessary to afford the person with a disability full enjoyment of the premises.

Under certain circumstances the owner may require the tenant to pay funds into an escrow account to restore the interior of the unit to its original condition if the modification would interfere with the owner or next resident's full enjoyment of the premises.

4. Reasonable Accommodation (24 CFR § 100.204)

The requirement to provide a reasonable accommodation applies to private owners participating in Housing Programs, PHA's and all housing providers that are recipients of federal financial assistance. PHA's are also covered under Section 504. The Fair Housing Act makes it unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

5. Definition Of Reasonable Accommodation

A person with a disability may require a reasonable accommodation in order to have equal access to the Housing Programs. The types of reasonable accommodations DHC can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability.

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

6. Types of Reasonable Accommodations

When warranted, DHC will modify normal procedures to accommodate the needs of a person with disabilities.

Examples include:

- Permitting applications and re-examinations to be completed by mail or other means.
- Conducting home visits.
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside DHC range) if DHC determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.
- Approving the leasing of a unit from a relative to provide reasonable accommodation for persons with disabilities. This provision does not apply to shared housing. [*See* 24 CFR §§ 982.306(d), 982.615 (b) (3)].
- Providing time extensions for locating a unit, when necessary, because of lack ofavailability of accessible units or special challenges of the family in seeking a unit.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with DHC staff.
- Displaying posters and other housing information in locations throughout DHC's office in such a manner as to be easily readable from a wheelchair.
- A utility allowance that is higher than the applicable amount on the utility allowance schedule. DHC will consider requests to approve a modified utility allowance up to twenty percent (20%) over the published and approved utility allowance because of additional equipment that uses additional consumption as verified by engineering studies, which the participant must provide at their expense.
- Allowing exception rents for determining rent reasonableness.

## 2-2C. REQUEST FOR AN ACCOMODATION

DHC will encourage the family to make its request in writing using a reasonable accommodation request form. However, DHC will consider the request any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. A verbal request shall be documented in the applicant's or the participant's file.

The family must explain what accommodation is needed to provide the person with the disability full access to DHC's programs and services. If the need for the accommodation is not readily apparent or known to DHC, the family must explain the relationship between the requested accommodation and the disability. There must be

an identifiable and/or verifiable relationship, or nexus, between the requested accommodation and the individual's disability.

1. Verification of Disability

Before providing an accommodation, DHC must determine that the person meets the definition of a person with a disability, and that the accommodation will allow the family access to DHC's programs and services. If a person's disability is obvious or otherwise known to DHC, and if the need for the requested accommodation is also readily apparent or known, no further verification is required.

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

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

> Third-party verification will be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third-party who is in a position to know about the individual's disability may provide verification of a disability.

DHC will request only information that is necessary to evaluate the disability-related need for the accommodation. **DHC shall not inquire about the nature or extent of any disability.**

DHC will deny any request for a reasonable accommodation that cannot be verified or where no nexus between the requested accommodation and the disability exists.

## 2-2 D. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION

DHC will approve a request for an accommodation if the following three (3) conditions are met:

- The request was made by or on behalf of a person with a disability.
- There is a disability-related need for the accommodation.
- The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on DHC, or fundamentally alter the

nature of DHC's HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations will be assessed on a case-by-case basis, taking into account factors such as the cost of the requested accommodation, the financial resources of DHC at the time of the request, the benefits that the accommodation would provide to the family, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

After a request for an accommodation is presented, DHC will respond, in writing, within 20 business days after the response has been received from the source verifying the need for the reasonable accommodation. If DHC denies a request for an accommodation because it is not reasonable, i.e., it would impose an undue financial and administrative burden or fundamentally alter the nature of DHC's HCV operations, DHC will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV Program and without imposing an undue financial and administrative burden. DHC will review alternative methods to address the reasonable accommodation request.

If DHC and the family have failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, DHC will notify the family, in writing, of its determination within 20 business days from the date of the most recent discussion or communication with the family.

## 2-2E. PROGRAM ACCESSIBILITY FOR PERSONS WITH HEARING OR VISION IMPAIRMENTS

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display/teletype) communication will be available. To meet the needs of persons with vision impairments, one-on-one assistance will be provided, upon request. Alternative accommodations may also be used.

Examples of alternative forms of accommodation include, but are not limited to, sign language interpretation or having a third-party representative such as a friend, relative or advocate, named by the applicant or participant, to receive, interpret and explain materials and be present at all meetings.

## 2-2F. PHYSICAL ACCESSIBILITY

DHC will comply with the laws and regulations pertaining to physical accessibility.

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

## 2-2 G. DENIAL OR TERMINATION OF ASSISTANCE

DHC's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2) (iv)]. When applicants with disabilities are denied assistance, the notice of denial will inform them of their right to an informal review. In addition, the notice will inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

When a participant family's assistance is terminated, the notice of termination will inform them of their right to an informal hearing and reasonable accommodation to participate in the informal hearing process.

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

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

## 2-3 A. OVERVIEW

DHC will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Limited English Proficiency Persons (LEP Persons). LEP Persons are persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this Admin Plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP Persons, DHC will balance the following four (4) factors: (1) the number or proportion of LEP Persons eligible to be

served or likely to be encountered by the HCV Program; (2) the frequency with which LEP Persons come into contact with the HCV Program; (3) the nature and importance of the program, activity, or service provided by the HCV Program to people's lives; and (4) the resources available to DHC and costs. Balancing these four (4) factors will ensure meaningful access by LEP Persons to critical services while not imposing undue burdens on DHC.

## 2-3B. ORAL INTERPRETATION

In a hearing, or situations in which health, safety, or access to important benefits and services are at stake, DHC will offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP Person.

DHC will analyze the various kinds of contacts it has with applicants, participants, and landlords, to assess language needs and decide what reasonable steps should be taken related to LEP Persons.

Where LEP Persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by DHC. Although, it is in the best interest of DHC and the family to have an outside third-party interpreter, the interpreter may be a family member or friend.

## 2-3C. WRITTEN TRANSLATION

DHC will provide written translations of vital documents for each eligible LEP language, as appropriate. DHC will use the written documents supplied by HUD, whenever possible. All documents will be clearly marked "For Informational Purposes Only".

All documents that will be executed for the file and program requirements will be in English.

## 2-3D. IMPLEMENTATION PLAN

If after completing the four-factor analysis DHC determines that it is not necessary to develop a Language Access Plan (LAP), the absence of a written plan will not obviate the underlying obligation to ensure meaningful access by LEP Persons to the HVC Program and services. In the absence of a LAP, DHC will devise alternative ways to provide meaningful access.

## 2-3E. AFFIRMATIVELY FURTHERING FAIR HOUSING

DHC will implement procedures to expand housing opportunities in areas that do not have undue concentrations of poverty and provides families with greater housing options.

DHC promotes the de-concentration of poverty.

DHC certifies that its Admin Plan does not include a residency preference for selection of families to participate in its HCV Program.

DHC may maintain and/or increase HCV Program lease-up rates by establishing payment standards that will enable families to rent throughout DHC's jurisdiction. DHC may with HUD approval utilize up to 120% of the fair market rents, as applicable, to allow families to select units in low-poverty or non-minority areas.

## 2-3 F. VIOLENCE AGAINST WOMEN ACT PROTECTIONS

Applicants who otherwise qualify for assistance or admission will not be denied admission on the basis that the applicant is or have been a victim of domestic violence, dating violence, sexual assault, or stalking. VAWA does not limit DHC's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance.

### 2.3F.1 Prohibition Against Termination of Assistance Related to Victims of Domestic Violence, Dating Violence, Stalking or sexual assault

Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a participant's household or any affiliated individual will not be the basis for termination of assistance, tenancy, or occupancy rights if the participant or an immediate member of the participant's family is the victim or threatened victim of domestic violence, dating violence, sexual assault, or stalking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be construed either as serious or repeated violations of the program obligations by the victim of such violence or as a good cause for terminating assistance.

Notwithstanding the foregoing, DHC may exercise its authority to, remove, terminate occupancy rights, or terminate assistance to any individual who is a household member or lawful occupant and who engages in criminal acts of physical violence against family members or others, without removing/terminating the assistance to, or otherwise penalizing the victim of such violence. DHC retains its authority to terminate the assistance of any household member if DHC concludes that there is an actual and imminent threat to other residents or those employed at or providing services to the property if the participant/household member is not evicted or terminated from assistance.

# CHAPTER 3

# ELIGIBILITY

## INTRODUCTION

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

This chapter contains three parts:

**Part I: Definitions of Family and Household Members.** This part contains DHC's definitions of family and household members and explains initial and ongoing eligibility issues related to these members.
**Part II: Basic Eligibility Criteria.** This part discusses income eligibility, and rules regarding citizenship, social security numbers, ineligible students, and family consent.
**Part III: Denial of Assistance.** This part covers factors related to an applicant's past or current conduct, e.g., criminal activity that can cause DHC to deny assistance.

## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

## 3-1A. FAMILIES AND HOUSEHOLD

1. Family Defined

To be eligible for assistance, an applicant must qualify as a family. A family may be a single person or a group of persons. The term "family" includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:
(1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
(2) A group of persons residing together, and such group includes, but is not limited to:
    (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family).
    (ii) An elderly family;
    (iii)A near-elderly family.

(iv) A disabled family.
(v) A displaced family; and
(vi) The remaining member of a tenant family.

Each family will identify the individuals to be included in the family at the time of initial eligibility screening and will update this information if the family's composition changes.

Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home as identified by court order, not to exceed 180 days, and is not intended to artificially enlarge the space available for other family members.

Unborn children and children in the process of being adopted are considered family members for the purpose of determining bedroom size, but not considered family members for determining income limit.

2. Household

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

3. Head of Household

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

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

4. Spouse, Co-head, and Other Adult

*Spouse* means the marriage partner of the head of household. Michigan law does not recognize common law marriages.

The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under Michigan law may be designated as a spouse.

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

A family may have a spouse or co-head, but not both.

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

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

5. Dependent

A *dependent* is a family member who is under 18 or a person over 18 who is a person with a disability as defined by HUD in 24 CFR 5.603 or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/, foster adults and live-in aides.

6. Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement will be considered a member of the family if they live with the applicant or participant family 51 percent or more of the time. Custody shall be determined by school and/or tax records.

When more than one applicant or participant family is claiming the same dependent as a family member, the family with primary custody at the time of the initial examination or re-examination will be able to claim the dependent. If there is a dispute about which family should claim the dependent, DHC will make the determination based on available documents such as the address listed in the school records of a school-age child or based upon a divorce decree and/or child custody order or an IRS return showing which family has claimed the child.

7. Full-Time Student

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

8. VAWA Self- Petitioner

VAWA self-petitioners are those who claim to be victims of battery or extreme cruelty. VAWA covers the following types of battery or extreme cruelty: domestic violence, sexual assault, and stalking.

## 3-1B. FAMILY BREAK-UP AND REMAINING MEMBER OF PARTICIPANT FAMILY

1. Family Break-up

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open. When both parents are on the waiting list and both are trying to claim a child, the parent whose address is listed in the most recent school records will be allowed to claim the child as dependent.

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. In the absence of a judicial decision, or an agreement among the original family members, DHC will determine which family will continue to receive assistance taking into consideration the following factors:

(1) the interest of any minor children, including custody arrangements.
(2) the interest of any ill, elderly, near elderly, or disabled family members.
(3) the relationships or custody arrangements.
(4) school records.
(5) any possible risks to family members as a result of domestic violence or criminal activity; and
(6) the recommendations of social service professionals.

Documentation of these factors is the responsibility of the applicant families. If neither family provides the documentation, both may be denied placement on the waiting list or continued assistance.

2. Remaining Member of a Participant Family

A family includes the *remaining member of a participant family,* which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family. If minors or legally incapacitated adults are the only remaining members of a participant family and there is no DHC approved family member able to assume the responsibilities of the head of household, a legally appointed guardian may assume the voucher so long as they meet the criteria to receive the voucher.

3. Caregiver for Child

DHC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance.

If neither a parent nor a DHC approved designated guardian remains in a unit, DHC will take the following actions:

• 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 caregiver will not be considered a family member until a determination of custody or legal guardianship is established through the court. Caregiver must provide legal documentation supporting upcoming court dates. Annually, the caregiver will be required to recertify current guardianship.

• At any time that legal custody or legal guardianship has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. Once all minor children are no longer remaining with the caregiver and did not take possession of the voucher, the voucher will expire within 180 days of last child leaving the subsidized unit.

• During any period that a caregiver is considered a visitor, the income of the caregiver is not counted in annual income and the caregiver does not qualify the family for any deductions from income. DHC will not approve an increase to the voucher size based upon the caregiver's household size.

If the head of household returns to the unit, the caregiver must be removed from the household within 60 days.

## 3-1C. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

1. Elderly Persons

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

2. Near-Elderly Persons

A *near-elderly person* is a person who is at least 50 years old but below the age of 62.

*3. Elderly Family*

An *elderly family* is one whose head, co-head, spouse, or sole member is a person who is at least 62 years of age.

4. *Near elderly* family means a family whose head (including co-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.

## 3-1D. PERSONS WITH DISABILITIES AND DISABLED FAMILY

1. Persons with Disabilities

Special rules apply to persons with disabilities and to any family whose head of household, spouse, or co-head is a person with disabilities.

2. Disabled Family

A *disabled family* is one whose, head, co-head, spouse, or sole member is a person with a disability.

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

3. Mainstream Disabled

The Mainstream Disabled Voucher qualification is for non-elderly persons (at eligibility a person 18 years of age or older and less than 62 years of age) with disabilities as defined in 42 U.S.C. 423, is determined, pursuant to HUD regulations, to have a physical, mental or emotional impairment that : is expected to be of long- continued and indefinite duration; substantially impedes his or her ability to live independently and is such a nature that the ability to live independently could be improved by more suitable housing conditions; or has a developmental disability as defined in 42 U.S.C. 6001) who is transitioning out of institutional or other segregated settings, at serious risk of institutionalization, currently experiencing homelessness, previously experienced homelessness and currently a client in a permanent supportive housing or rapid rehousing project.

## 3-1 E GUESTS

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

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

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, who are not included as a family member because they live outside of the assisted household more than 51 percent of the time, i.e., more than 183 days, are not subject to the time limitations of guests as described above. The presence of visiting children will not increase the voucher subsidy.

A family may request an exception to this policy for valid reasons, e.g., care of a relative recovering from a medical procedure that is expected to last 30 consecutive days. A written request must be submitted by the family with the landlord's express, written consent and an approval granted by DHC for any stay not to exceed 60 days. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

When determining whether a person is a guest or a household member, DHC will consider, among other things, statements from neighbors, family members, the landlord, DHS workers, and copies of police reports or other relevant documentation. Absence of evidence of any other address will be considered verification that the person is a member of the household. Further, use of the unit address as the person's current residence for any purpose not explicitly temporary. Voter's registration, driver's license, vehicle registrations, etc. will be considered evidence of permanent residence. The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual is considered an unauthorized member of the household and subsidy may be terminated.

## 3-1F. FOSTER CHILDREN AND FOSTER ADULTS

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards. (See Chapter 8.)

Children who are temporarily absent from the home as a result of placement in foster care will not decrease the voucher size of HCV Program participants. Children temporarily absent from the home due to placement in foster care are considered family members. This provision only pertains to the foster child's temporary absence from the home as identified by court order, not to exceed 180 days, and is not intended to artificially enlarge the space available for other family members.

*Foster adults* are usually persons with disabilities, who are unable to live alone.

Foster children and foster adults who are living with an applicant or assisted family are considered household members but not family members. The income of foster children or foster adults is not counted in family annual income and foster children and foster adults do not qualify for the $480 dependent deduction.

## 3-1G. ABSENT FAMILY MEMBERS

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

Participants must notify DHC in writing at least 10 business days before leaving their unit if they are going to be absent from the unit for more than three consecutive weeks. The family must provide written notice to the owner and DHC if the unit will be vacant between three and six months. The notice must include the beginning and ending dated of the vacancy. DHC's written approval is required for temporary absences in excess of three months. Each circumstance will be individually evaluated and authorized by DHC.

1. Definitions of Temporarily and Permanently Absent

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

2. Absent 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 DHC indicating that the student has established a separate household, or the family declares that the student has established a separate household.
The family will be required to substantiate the student has a separate household via third-party verification, i.e., lease, utility bills, income tax statements, or notarized statement.

3. Absence Due to Military Service

DHC supports families and dependents of military personnel (including reservists and guardsmen) who are called to active duty. DHC encourages private owners to be as lenient as responsibly possible to support these families. This includes a variety of

situations when persons are called to active duty in the Armed Forces as a result of deployment. Specific actions that a DHC or private owner can undertake to support these military families include, but are not limited to:

(1) Allowing a suitable guardian to move into the assisted unit on a temporary basis to care for any dependents that the military person leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not to be counted in determining family income and the amount of rent the family pays based on family income.

(2) Careful consideration of the circumstances of any case involving delayed payment of rent by the family. Determine whether it is appropriate to accept a late payment.

To this end, DHC provides deployed military persons with special consideration related to their absence from the subsidized unit. DHC has adopted the following guidelines related to determining the status of household members absent due to military deployment:

1. DHC will consider an adult child who goes into the military and leaves the household temporarily absent if the deployment is 24 months or less. The adult child who goes into the military and leaves the household will be considered permanently absent if the deployment is 24 months or more.

2. In cases where a military member is a single head of household and is deployed for military duty, DHC will continue housing assistance payments to the owner on behalf of a military family, even though all members of the military family are temporarily absent from the assisted unit because a member of the assisted family has been called to active duty. However, program regulation at 24 CFR 982.312 permits family absence from the unit for no more than 180 consecutive days and DHC may not exceed this regulatory limit.

3. A military spouse is counted as a household member even though absent,and the spouse is not physically residing in the unit. Space will be provided for the spouse who will be absent due to military deployment. The military spouse is not considered to be absent from the household. Space will not be provided for other family members who are deployed in excess of 24 months for military service.

4. A family must request DHC approval for the return of adult family members that DHC has determined to be permanently absent due to military duty.

The family will be required to submit documentation to substantiate the military deployment and length of time the military family member is expected to be deployed.

4. Absences Due to Placement in Foster Care

The family will be required to submit documentation to substantiate the length of time the child is to be away from the home.

If the child is not ever expected to be returned to the home (permanent placement in foster care), the child will be removed from the family composition and the family's subsidy standard will be reduced accordingly at the next annual re-examination.

If the agency indicates that it is unknown whether the child will be returned to the home, the child will remain a part of the family composition for a maximum of 180 days and the family's subsidy standard will be reduced accordingly at the next annual re-examination. Failure by the family to report the absence of the child may result in termination from the HCV Program. Family composition will be reviewed at least annually.

If, as part of the family's obligations to return custody, the court requires appropriate bedrooms for the return of the children to the household, DHC shall utilize the court order to determine subsidy standards.

5. Absent Head of Household, Spouse, or Co-Head

DHC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance.

If neither a parent nor a DHC approved designated guardian remains in a unit, DHC will take the following actions:

- 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 caregiver will not be considered a family member until a determination of custody or legal guardianship is established through the court. The caregiver must provide legal documentation supporting upcoming court dates.
- At any time that custody or guardianship legally has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. Once all minor children are no longer remaining with the caregiver and did not take possession of the voucher, the voucher will expire within 180 days of last child leaving the subsidized unit.
- During any period that a caregiver is considered a visitor, the income of the caregiver is not counted in annual income and the caregiver does not qualify

the family for any deductions from income. DHC will not approve an increase to the voucher size based upon the caregiver's household size.

If the head of household returns to the unit, the caregiver must be removed from the household within 60 days.

6. All Members Absent from Household

If all members of the household are absent for thirty (30) consecutive days, but have not moved from the unit, and DHC has determined the unit to be abandoned, assistance will be terminated. In order to determine if the family is absent from the unit, DHC may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, statement made by the participant or family member, perform inspections to the unit, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth later in this Admin Plan. Returned mail shall be just caused to makethe determination that the unit has been abandoned. Termination of assistance shall occur the last day of the month in which DHC determines the unit to be abandoned.

7. Absent Single-Family Household Member

When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than 180 days, the assistance will be terminated. If medical professional documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated. Documentation from a nursing home or medical facility may be used to determine dates of absences.

8. 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. The voucher size may be changed accordingly to reflect the member's removal.

9. Absent due to death

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

10. Absent due to incarceration

Incarceration for more than 120 consecutive days defines a sole member, or any

household member, as permanently absent from the unit.

DHC will consider the opportunity to return to the contract unit following incarceration based on the following factors:
Criminal Offense
Probation activity and status remains favorable
Relationship to Head of Household, Spouse, or
child
Relationship to minor children if voucher assistance followed the children to a custodial relationship due to incarceration
Owner in willing to allow member to be added to the lease
Voucher will not be available for transfer for five years

DHC will allow individuals who are absent from the housing unit due to pre-trial incarceration, for those sentenced to alternative to incarceration programs, community service or house arrest to remain on the voucher until sentencing concludes.

11. Return of Permanently Absent Family Members

DHC will not approve the return of permanently absent family members except in the case of court action, release from hospitalization, or return of members absent due to military duty.

## 3-1 H. LIVE-IN AIDE

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

DHC will approve a live-in aide if needed as a reasonable accommodation to make the HCV Program accessible to and usable by the family member with disabilities.

A live-in aide may only reside in the unit with the prior, written approval of DHC and the owner. Written verification will be required initially and on an annual basis from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker regarding the need for a live-in aide. The verification will specifically state that a live-in aide is essential for the daily care of the family member who is elderly, near elderly or disabled.

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. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a participant family or have any rights to the HCV program.

The approval of a live-in aide shall increase the maximum permitted voucher size by 1-bedroom to accommodate the need for a live-in aide. The live-in aide's family members may also reside in the unit with DHC and the owner's prior, written approval. The presence of the live-in aide's family members must not overcrowd the unit. In the instance that the live-in aide's family size will overcrowd the unit, the live-In aide will be denied. (See Chapter 8) DHC will not increase the voucher size to accommodate the live-aide's additional family members.

A live-in aide is a member of the household for live-in aide purposes only and not a family member and does not qualify as a remaining family member. The income of the live-in aide is not considered in income calculations. A live-in aide must utilize the rental unit as his or her sole residence during the time he or she is certified as the participant's live-in aide; and must comply with all citizenship requirements. DHC will document the following annually or when there is a change in live-in aides. If the Live-in Aide was approved for one year, a new request for reasonable accommodation must be submitted by the family and approved at the next reexamination. If the request for reasonable accommodation for a live-in aide was approved on a permanent basis, DHC will verify that the live-in aide is identified on the household declaration.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, (2) would not be living in the unit except to provide the necessary supportive services and (3) is not working full-time outside of the home.

DHC will not approve a particular person as a live-in aide, and may withdraw such approval if:

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program, within the last five years.
- The person has violated any family obligations under the program as published under 24 CFR 982.551, within the last five years.
- The person commits drug-related criminal activity or violent criminal activity.
- The person has ever been convicted of manufacturing or producing methamphetamine, on the premises of federally assisted housing.
- The person has been evicted from any federally subsidized housing program for any reason within the past five years.
- The person has been identified as someone subject to lifetime registration on a state sex offender registry.
- The person currently owes rent or other amounts to DHC or to another PHA in connection with federally assisted housing.
- The person fails to provide documentation to permit DHC to conduct the required screening; and/or
- If the live-in aide's family size will overcrowd the unit, the live-in aide will be denied.

After receiving a request and receipt of all documents required to approve a live-in aide, DHC will screen the live-in aide and upon final determination will notify the family of its decision in writing.

**PART II: BASIC ELIGIBILITY CRITERIA**

## 3-2 A. INCOME ELIGIBILITY AND TARGETING

1. Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

Definitions of the Income Limits

- **Low-income family** is a family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- ***Very low-income family.*** A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
  ***Extremely* low-income family** (ELI) is very-low-income families whose income does not exceed the higher of 30% of the area median income or the federal poverty level

***Using Income Limits for Eligibility***

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size.

In order to be income eligible, an applicant family must be one of the following:

- A Very-Low Income Family***.***
- A low-income family that is ‘‘continuously assisted’’ under the 1937 Housing Act.
- A low-income family that meets additional eligibility criteria specified in the DHC HCVP administrative plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA jurisdiction.
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (HOPE for homeownership of multifamily units) project. (Section 8(o)(4)(D) of the 1937 Act (42 U.S.C. 1437f(o)(4)(D))
- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing as defined in 24 CFR 248.101.

- A low-income family that qualifies for voucher assistance as a nonpurchasing family residing in a project subject to a resident homeownership program under 24 CFR 248.173.
- For the Moderate Rehabilitation program, Very Low-Income and Low-Income families are eligible to both apply and be admitted to the program.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes in any of the following categories:

- continuously assisted under the 1937 Housing Act. An applicant family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV Program.
- physically displaced by rental rehabilitation activity under 24 CFR Part 511
- non-purchasing family residing in a HOPE 1 or HOPE 2 project or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173
- displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165
- non-purchasing family residing in a project subject to a resident homeownership program

To determine if the family is income eligible, DHC will compare 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. Income limits are used for eligibility only at admission.

For initial lease-up, portability families must be within the applicable income limit for the jurisdiction in which they want to live.

2. Using Income Limits for Targeting

At least 75% of the families admitted to DHC's HCV Program during a DHC fiscal year must be extremely low-income families. An extremely low-income family is one whose annual income does not exceed 30% of the area median income.

DHC will monitor admissions to the HCV Program throughout the fiscal year. If extremely low-income families make up less than 75% of admissions, DHC will give priority to extremely low-income families until extremely low-income admissions again make up 75% of admissions.

## 3-2B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

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

1. Declaration

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

2. U.S. Citizens and Nationals

Family members who declare citizenship or national status will be required to provide additional documentation such as a birth certificate or other legal document. DHC may also request additional documentation of their status, such as a passport, immigration cards, valid identification, and the retrieval of information from S.A.V.E.

3. Eligible Non-citizens

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

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

4. Ineligible Non-citizens

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on non-contending family members listing, signed by the head

of household, spouse, or co-head, regardless of citizenship status, indicating their ineligible immigration status. DHC is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to non-citizen students is prohibited by federal regulation. This prohibition extends to the non-citizen spouse of a non-citizen student as well as to minor children who accompany or follow to join the non-citizen student. Such prohibition does not extend to the citizen spouse of a non-citizen student or to the children of the citizen spouse and non-citizen student. Such a family is eligible for pro-rated assistance as a mixed family.

5. Mixed Families

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

6. Ineligible Families

DHC will not provide assistance to a family before the verification of citizenship status of at least one family member. When DHC determines that an applicant family does not include any citizens, nationals, or eligible non-citizens, following the verification process, the family will be sent a written notice within 30 business days of the determination. The notice will explain the reasons for the denial of assistance, that the family may be eligible for pro-ration of assistance and will advise the family of its right to request an appeal to the USCIS or to request an informal review with DHC. The informal review with DHC may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice will also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal review process. Informal review procedures are contained in Chapter 16.

7. Timeframe for Determination of Citizenship Status

DHC will verify the status of applicants at the time other eligibility factors are determined. For new members joining the assisted family, DHC will verify citizenship status at the time they are added to the household.

If an individual qualifies for a time extension for the submission of required documents, DHC will grant such an extension for no more than 30 days.

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

## 3-2C. SOCIAL SECURITY NUMBERS

Applicants and participants, including each member of the household, are required to disclose his/her assigned social security number (SSN) except those individuals who do not contend to have eligible immigration status. These individuals in most instances would not be eligible for an SSN.

If a family member, who is required to execute a certification, is less than 18 years old, the certification will be executed by the individual's parent or guardian. Assistance -may not be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the new member's SSN documentation will be submitted by the family at the time they are added to the household. If any member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled re-examination. New members being added to the household must provide social security documentation at the time of submission. If the requested documentation is not provided, the person will not be added to the household.

Within the six-month period prior to the date of voucher issuance, the applicant family may become a participant, so long as the required Social Security verification documents are provided to DHC within 90 calendar days from the effective date of the Housing Assistance Payment (HAP) Contract. DHC shall grant an extension of one additional 90-day period if DHC determines the applicant's failure to comply was due to circumstances that could not have been reasonably foreseen and were outside the control of the applicant. If the family fails to produce the documentation required within the required time period, DHC may proceed to terminate the family from the program.

3-2 C.1 If the applicant family adopts a minor child or adds a foster child within the six-month period preceding their admission to the program, the child may be assigned an SSN however circumstances may make it difficult for the adoptive or foster family to obtain the documentation in a timely fashion (90 days). The family will be granted one additional 90-day period to obtain the required documentation.

## 3-2D. FAMILY CONSENT TO RELEASE OF INFORMATION

HUD requires each adult family member, and the head of household, spouse, or co-head, 18 years or older, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information

relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

DHC will deny admission to the program if any adult member of the applicant family fails to sign and submit the consent forms required to obtain information.

## 3-2 E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

If a student enrolled at an institution of higher education is:

- under the age of 24
- is not a veteran
- is not married
- does not have a dependent child
- is not a person with disabilities receiving HCV assistance as of November 30, 2005?

the student's program eligibility will be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents will be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from his/her parents in accordance with DHC policy, the income of the student's parents will not be considered in determining the student's eligibility.

This requirement is limited to students who are seeking assistance on their own, separately from their parents.

*1. Definitions*

In determining whether and how the eligibility restrictions apply to a student, DHC will rely on the following definitions.

a. Dependent Child

In the context of the ***student eligibility restrictions,*** dependent child means: a dependent child whose parent is enrolled in an institution of higher education. The dependent child must be a member of the assisted family and cannot be the head of household, spouse, or co-head. Foster children and foster adults are not considered dependents.

b. Independent Student

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

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

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

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

  - Be at least 24 years old by December 31 of the award year for which aid is sought.
  - Be an orphan, in foster care or a ward of the court at any time when the individual was 13 years of age or older.
  - The individual is, or was immediately prior to age of 18, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
  - Be a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
  - Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent).
  - Be a graduate or professional student.
  - Be married.
  - The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
    - A local educational agency homeless liaison
    - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director,
    - A financial aid administrator
- The student was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax returns.
- The student provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the person providing the support and must be submitted even if no assistance is being provided.
- If DHC determined that an individual meets the definition of a vulnerable youth, such a determination is all that is required to determine the purpose is an independent student for the purposes of using only the student's income for determining eligibility for assistance

DHC will verify that a student meets the above criteria in accordance with the policies in Chapter 7.

c. <u>Institution of Higher Education</u>

DHC will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education.

d. Parents

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

e. Person with Disabilities

DHC will use the statutory definition under section 3(b) (3) (E) of the 1937 Act to determine whether a student is a person with disabilities.

f. Veteran

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

g. Vulnerable Youth

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older.

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by the court of competent jurisdiction in the individual's state of legal residence

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison,

The Director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Act or a designee of the Director

A financial aid administrator

2. Determining Student Eligibility

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

For any student who is subject to the 24 CFR 5.612 restrictions, DHC will:

- Follow its usual policies in determining whether the student individually and the student's family collectively are eligible for the HCV Program.
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section.
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the HCV Program.

If DHC determines that the student, the student's parents, if applicable, or the student's "family" is not eligible, DHC will deny assistance.

3. Determining Parental Income Eligibility

For any student who is subject to the 24 CFR 5.612 restrictions and who does not satisfy the definition of independent student in this section, DHC will determine the income eligibility of the student's parents as follows:

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

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

3-2 F VAWA Self-Petitioner

DHC may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status. Self-petitioners can indicate that they are in satisfactory immigration status when applying for assistance.

Satisfactory immigration status means an immigration status which does not make the individual ineligible for financial assistance.

In order to qualify the non-citizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. Citizen or LPR and DHC must receive a petition (INS Form 1-360 or I-130 or INS Form 797)

Housing assistance and all other VAWA protections will be granted a self-petitioner throughout the verification process until final determination is made. If the final determination is to deny, DHC will notify the applicant timely and take all necessary actions to terminate voucher assistance

**PART III: SCREENING FOR ELIGIBILITY AND DENIAL OF ASSISTANCE**

DHC conducts applicant screening to evaluate the eligibility of families who apply to the HCV program. A family that does not meet the eligibility criteria discussed in Parts I and II, will be denied assistance. Also, DHC may deny assistance based on screening of applicants certain types of current or past behaviors of family members. DHC will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine: 1) whether any member of the household is subject to a mandatory federal requirement of admission, and 2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility.

For any denial based on a household member's criminal record, DHC may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

## 3-3 A. DENIAL OF ASSISTANCE

Denial of assistance includes any of the following:

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

1. Prohibited Reasons for Denial of Assistance

DHC cannot deny assistance to the program based on any of the following criteria:

- Age, handicap, disability, familial status, race, color, religion, sex, national origin, marital status, gender identity, or sexual orientation. (See Chapter 2 for additional information about fair housing and equal opportunity requirements.)
- Where a family lives prior to admission to the program.

- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside DHC's jurisdiction (See Chapter 10, Portability.)

- Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Whether the family includes children.
- Whether a family decides to participate in a family self-sufficiency program.
- The Violence Against Women Reauthorization Act of 2013 prohibits denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. Specifically, Section 606(4)(A) of VAWA 2013 adds the following provision to Section 8 of the U.S. Housing Act of 1937.

**2. Screening for Criminal Record**

DHC will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine: (1) whether any member of the household is subject to a mandatory federal requirement for denial of admission, and (2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility.

An online National Sex Offender check covering sex offender registries in all states is performed for all adult applicants. DHC may conduct a criminal history review at a national level (at no cost to the applicant).

For any denial based on a household member's criminal record, DHC may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.

**Federally Barred Admission**

DHC is required by federal law to deny assistance to an applicant if any of the household members:

- Is subject to a lifetime registration requirement under a state sex offender registration program.
- Has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Has been evicted from federally assisted housing for drug-related criminal activity during the previous three years, except if one of the following occurred:

- The circumstances leading to the eviction no longer exist.
- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.
- DHC has evaluated the family's income and composition at the time of eviction

### 3. Other Criminal Records

For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community using valid written criteria, applicable laws including fair housing laws, and applicable regulations. Except as mandated by federal law, no applicant for the HCV program will be automatically barred from receiving housing assistance because of his or her criminal background. Applicants whose conviction(s) do not suggest a significant level of risk will be deemed admissible to the program if otherwise eligible.

Applicants whose conviction(s) suggest a significant level of risk will be reviewed by DHC staff (Chief Operating Officer of Rental Assistance or designee) to assess, based on the totality of the circumstances including any information the applicant wishes to provide, whether the applicant should be admitted to the program or denied. DHC may, at its sole discretion include expert testimony during the assessment.

CRITERIA FOR DECIDING TO DENY ASSISTANCE:

The Criminal Background Screening Criteria Grid generally applies to convictions. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. If an expunged conviction appears on a criminal background report, it will not be considered in the screening process. Attempts and conspiracies to commit a crime will be treated the same way as the primary crime. For example, an applicant with a conviction for attempted murder will be screened the same was as a person with a conviction for murder

| Crimes Against Persons | | |
|---|---|---|
| **Assault-Related Offenses**<br><br>General Definition: An unlawful attack by one person upon another. | 7 | 3 |
| **Family-Related Offenses, Nonviolent**<br><br>General Definition: Unlawful, non-violent acts by a family member (or legal guardian) that threatens the physical, mental, or economic well-being morals of another family member that are not classifiable as other offenses, such as Assault, Incest and Statutory Rape etc. | 5 | 3 |
| **Homicide-Related Offenses**<br><br>General Definition: The killing of one human being by another. | | |
| **Kidnapping/Abduction-Related Offenses**<br><br>General Definition: The unlawful seizure, transportation, and/or detention of a person against his/her will or of a minor without the consent of his/her custodial parent(s) or legal guardian. | 7 | 3 |
| **Sex-Related Offenses, Forcible***General Definition: Any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will in instances where the victim is incapable of giving consent. (See below for sex offender registration requirements.) | 7 | 3 |
| **Sex-Related Offenses, Non-forcible***<br><br>General Definition: Unlawful, non-forcible sexual intercourse, excluding prostitution offenses. | 5 | 3 |
| **All Other Person-Related Offenses**<br><br>General Definition: Any offense committed against another person which causes harm to a person which does not meet specific categories previously outlined as person-related offenses. | 5 | 3 |
| **Crimes Against Property** | | |
| **Arson-Related Offenses**<br><br>General Definition: To unlawfully and intentionally damage or attempt to damage any real or personal property by fire or incendiary device. | 5 | 3 |
| **Manufacturing Methamphetamine in Federally Assisted Housing***<br>**General definition: Conviction for drug-related criminal activity for the production or manufacture of methamphetamine on the premises of Federally assisted housing.** | **Lifetime ban** | **Lifetime ban** |

| | | |
|---|---|---|
| **Sex Offender Registrant*General Definition: Identification of a registration by the applicant as a registered sex offender in one or more jurisdictions covered by the search. (Note that requirements for registration vary by locale and may require the individual to actively register themselves by law in some states. Some states prohibit discrimination on the basis of registration as a sex offender.).** | **Lifetime ban** | **Lifetime ban** |
| **Weapons Law-Related Offenses**<br><br>**General Definition: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.** | **5** | **3** |
| **Drug/Narcotic-Related Offenses: Manufacture or Distribution Indicated General Definition: The violation of laws prohibiting the production, distribution, or trafficking of certain controlled substancesand the equipment or devices utilized in their preparation and/or use. Offenses within this category** | **5** | **3** |

## 4 Drug and Alcohol Abuse

In an effort to prevent drug-related criminal activity, as well as other patterns of behavior that pose a threat to the health, safety, or the right to peaceful enjoyment of the premisesby other residents, DHC will endeavor to screen applicants as fairly as possible.

DHC will screen applicants to determine whether any household member is currently engaging in the illegal use of a drug.

Currently engaged in the illegal use of drug means a person has engaged in the behavior recently enough (within 12 months) to justify a reasonable belief that there is continuing illegal drug use by a household member. DHC will not deny admission if the household member who is currently engaging in the abuse of alcohol is enrolled in a supervised rehabilitation program.

In determining reasonable cause or reasonable belief, DHC will consider all credible evidence including, but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. DHC will also consider evidence from treatment providers or community-based organizations providing services to household members, self-admission, admission during testimony, or admissions or a

police report. A record of arrest alone will not be used to determine reasonable cause or reasonable belief, unless DHC has sufficient evidence other than the fact of arrest that the individual engaged in the conduct within the past twelve months.

*Currently engaged in* is defined as any use of illegal drugs during the previous 12 months.

5. . Grounds for Denial or Termination of Assistance

DHC may deny assistance to applicants or proposed additions to the family and terminate assistance for participants for violations of any of the following family responsibilities. The family must:

- Supply any information that DHC determines is necessary in the administration of the HCV Program, including submission of required evidence of citizenship or eligible immigration status. “Information” includes any requested certification, release, or documentation used for initial eligibility and for regularly scheduled re-examination or interim re-examination of family income and composition.

- Disclose and verify SSNs, sign, and submit consent forms for obtaininginformation.

- Supply true and complete information.

- Be responsible for housing quality standard (HQS) damages and/or failed items *caused* by the family.

- Allow DHC to inspect the unit at reasonable times and after reasonable notice.

- Notify DHC and the owner, in writing, at least 30 days before vacating the unit or terminating the lease after the initial term of the lease.

- Provide DHC a copy of any owner eviction notices within ten (10) days fromreceipt of the notice.

- Use the dwelling unit for residence by the family. The unit must be the family’s only place of residence.

- Request, in writing, from DHC, approval to add other family members, foster children, caregiver, or a live-in aide as a member of the household before moving them into the assisted unit.

- Report to DHC the birth, adoption, or court-awarded custody of a child, except for foster children, within ten (10) days of the change.

- Notify DHC, in writing, within ten (10) days if any family member no longer resides in the unit.

- Ensure that if the family engages in legal profit-making activities in the unit, that such activities are approved by the property owner and are incidental to the primary use of the unit by the family.

- Supply information or certification to verify that the family is living in the unit or relating to the family's absence from the unit. If the absence will be for more than 30 consecutive days, the family must notify DHC in writing within ten (10) days from their absence. If a family member is absent from the unit more than 180 days, the absent member will be terminated.

- Have a minimum of one household member who is a U.S. citizen, national, or has HUD defined eligible immigration status.

- Provide, except in cases of emergency, verification to DHC that they have made requests to the owner to resolve the issue and the owner has failed to do so before requesting a special HQS inspection.

- If any member of the family fails to sign and submit HUD or DHC required consent forms for obtaining information.

- If the household member is or was engaged in criminal activity that would be detrimental to the program or to the best interest of administration of the program by DHC

- If the family is under contract and 180 days have elapsed since DHC's last housing assistance payment (HAP) was made

## 3-3B. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE

6. Previous Behavior in Assisted Housing

DHC will not deny assistance to an otherwise eligible applicant family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program or a Welfare-to-Work program.

DHC will deny assistance to an applicant family if:

- The family does not provide information that DHC determines is necessary in the administration of the HCV Program.
- The family does not provide complete and true information to DHC.
- Any family member has been evicted from, had program violations, or has seriously or repeatedly violated any lease terms from any federally assisted housing in the last five years. A family will be considered evicted if the family moves after a Judgment of Possession has been issued, whether or not physical enforcement of the order was necessary.
- Any family member is terminated for fraud at another PHA, and the effective date of the termination is less than five (5) years from the date of the eligibility meeting at DHC.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program. If the family member resided in a unit under HAP contract or other federally assisted program and was terminated for program fraud, DHC will honor the terminating PHA's program policy. DHC will request that the PHA provide to DHC a statement of cause and a copy of the relevant program policy related to eligibility. If DHC has ever terminated assistance under the HCV Program or Moderate Rehabilitation Program for any member of the family for violation of family obligations within the past five years.
- The family owes rent or other amounts to DHC, another PHA, or an owner, in connection with HUD's Housing Programs the Housing Choice Voucher Program, Moderate Rehabilitation Program, the Project-Based Voucher Program or the public housing program, unless the family repays the full amount of the debt before admission.
- If the family has not reimbursed DHC for amounts DHC paid to an owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays DHC the full amount of the debt before being selected from the waiting list.
- The family has breached the terms of a repayment agreement entered into with DHC or another PHA, unless the family repays the full amount of the debt covered in the repayment agreement before being selected from the waiting list.
- A family will be given the opportunity to pay the debt within 90 days of the eligibility interview. If the family fails to meet their obligation to repay the debt, the family will be denied assistance.
- A family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, or any other federal or state assisted program.
- A family member has engaged in or threatened violent or abusive behavior toward DHC personnel or agents.
- Any record of eviction from public or privately-owned housing as a result of criminal activity within the past 3 years

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

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

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a Possession Judgment has been issued, termination and denial of assistance is not mandatory. However, DHC will determine whether the family has committed serious or repeated violations of the lease on available evidence and may terminate or deny assistance, require that the household member who participated in or was responsible for the offense no longer reside in the unit or require the family to repay any debt owed. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the participant or guests.

Serious or repeated lease violations will include, but are not to be limited to, non-payment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity, including drug-related criminal activity.

3. Eligibility Factor - Evicted for Drug Related Criminal Activity

Drug-related criminal activity is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use a controlled substance.Drug-related criminal activity means on or off the premises, not just on or near the premises.

## 3-3C. SCREENING

1.. Screening for Suitability as a Tenant

DHC has no liability or responsibility to the owner for the family's behavior or suitability for tenancy.

DHC will not conduct additional screening to determine the applicant's suitability for tenancy. The owner is responsible for screening and selection of the family to occupy the owner's unit. DHC will inform the owner that screening and selection for tenancy is the responsibility of the owner.

An owner may consider a family's history with respect to factors such as payment of rent and utilities, caring for a unit and premises, respecting the rights of other

participants to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

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

DHC will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information addressed in the previous paragraph, when requested of DHC, in writing, by the owner. DHC will not provide any additional information to the owner, such as tenancy history, criminal history, credit background, etc.

Based upon a complaint by an applicant, DHC may report an owner to HUD's Office of Fair Housing and Equal Opportunity or a local fair housing organization.

Owners who participate in the HCV program becomes subject to the Equal Access Rule when the owner executes a housing assistance payment (HAP) contract with DHC. The rule requires that the housing be open to all eligible individuals regardless of sexual orientation, gender identity or material status. The owner is also subject to applicable state and local fair housing laws prohibiting discrimination because of sexual orientation, gender identity and/or material status.

DHC may not disclose to the owner any confidential information provided to DHC by the family in response to DHC's request for documentation of domestic violence, dating violence, sexual assault or stalking except at the written request or with the written consent of the individual providing the documentation.

## 3-3D. CRITERIA FOR DECIDING TO DENY ASSISTANCE

1. Evidence

DHC will consider all credible evidence in making admission decisions.

2. Consideration of Circumstances

HUD authorizes DHC to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandated (see Section 3-III.B). The final decision on whether to admit a family, however, who fails to meet DHC's eligibility requirements, lies within DHC's discretion. DHC will consider the following factors before making its decision:

- The seriousness of the case, especially with respect to how it would affect other participants.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

*3. Removal of a Family Member's Name from the Application*

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household will certify that the family member will not be permitted to visit or to stay as a guest in the assisted unit. After admission to the HCV Program, the family will present evidence of the former family member's current address upon DHC request.

4. Reasonable Accommodation

If the family includes a person with disabilities, DHC's decision concerning denial of admission is subject to consideration of a request for a reasonable accommodation.

If the family indicates the behavior of a family member with a disability is the reason for the proposed denial of assistance, DHC will determine whether the behavior is related to the disability. If so, upon the family's request, DHC will determine whether alternative measures are appropriate as a reasonable accommodation. DHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance. See Chapter 2 for a discussion of reasonable accommodation.

## 3-3E. NOTICE OF ELIGIBILITY OR DENIAL

1. Eligible for Assistance

If the family is eligible for assistance, DHC will notify the family when it extends the invitation to attend the voucher briefing appointment, as discussed in Chapter 5.

The family will be notified of a decision to deny assistance in writing within 15 business days of the determination. If DHC proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, DHC must notify the head of household of the proposed action and will provide the head of household an opportunity to dispute the accuracy and relevance of the information before denial of admission**.**

Upon request, the subject of the record and the head of household will be provided a copy of the record.

The head of household will be given 10 business days to dispute the accuracy and relevance of the information. If the head of household does not contact DHC to dispute the information within that 10-day period, DHC will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Chapter 20.

## 3-3F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

The Violence Against Women Reauthorization Act of 2013 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis or a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, engaged in by a member of an applicant's household or any affiliated individual. VAWA does not limit DHC's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance. See Chapter 19, Victims of Domestic Violence, Dating Violence and Stalking (VAWA).

## 3-3 G. DHC ERRORS

If DHC makes a calculation error either at admission to the HCV Program, an annual re-examination, or during an interim re-examination, DHC will perform a correction to correct the error and no retroactive charge will be applied to the family.

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

**Person with Disabilities [24 CFR 5.403]**
The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

> Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*

In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  **(A) In General**

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

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments.

  (ii) is manifested before the individual attains age 22.

  (iii) is likely to continue indefinitely.

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, (VII) Economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  **(B) Infants and Young Children**

  An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

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

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

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

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

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

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

(1) Physical or mental impairment includes:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) *Major life activities* mean functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

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

(a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation.

(b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

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

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

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

*Definition of ‘‘Institution of Higher Education’’ From 20 U.S.C. 1001*

(a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ‘‘institution of higher education’’ means an educational institution in any State that

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate.

(2) Is legally authorized within such State to provide a program of education beyond secondary education.

(3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree.

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted reaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of reaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of chapter 34 of Title 42, the term ‘‘institution of higher education’’ also includes—

(1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students’ persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

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

*Definition of ‘‘Institution of Higher Education’’ From 20 U.S.C. 1002*

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

(1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term ‘‘institution of higher education’’ for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42

includes, in addition to the institutions covered by the definition in section 1001 of this title—

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

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

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

(2) Institutions outside the United States

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

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

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

(bb) At least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

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

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

(B) Advisory panel

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

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

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

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

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

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

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

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

(B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate degree or a postsecondary diploma, respectively; or

(D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) The institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification. The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

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

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

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

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title.
(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter.
(E) Has been in existence for at least 2 years; and
(F) Has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

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

(c) Postsecondary vocational institution.

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

(A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation.
(B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
(C) Has been in existence for at least 2 years.

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

# CHAPTER 4

# APPLICATIONS, WAITING LIST AND TENANT SELECTION

## INTRODUCTION

This chapter describes DHC policies for taking applications, managing the waiting list, and selecting families for voucher assistance. HUD regulations require all families have an equal opportunity to apply for and receive housing assistance. DHC is required to affirmatively further fair housing goals in the administration of the program. The policies outlined in this chapter are organized into three sections, as follows:

**Part I: The Application Process.** This part provides an overview of the application process and discusses how applicants can obtain and submit applications. It also specifies how DHC will handle the applications it receives.
**Part II: Managing the Waiting List.** This part presents the policies that govern how DHC's waiting list is structured, when it is opened and closed, and how the public is notified of the opportunity to apply for assistance. It also discusses the process DHC must use to keep the waiting list current.
**Part III: Selection for HCV Assistance.** This part describes the policies that guide DHC in selecting families for HCV assistance as such assistance becomes available. It also specifies how in-person interviews must be used to ensure that DHC has the information needed to make a final eligibility determination.

## PART I: THE APPLICATION PROCESS

### 4-1 A. APPLICATION PROCESS

The following options may be considered when opening the waiting list. A preliminary application (pre-application) is made available during as prescribed by DHC. Potential applicants must complete the pre-application. The following criteria will be used when selecting a method to open the waiting list:

- The number of applicants needed.
- The income level of applicants for income targeting purposes.
- Program integrity.
- Operational resources and efficiencies; and
- Costs.

The information on the pre-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.

## 4-1 B. ACCESSIBILITY OF THE APPLICATION PROCESS

1. Elderly and Disabled Populations

DHC will take a variety of steps to ensure that the application process is fully accessible to those people who might have difficulty complying with the standard DHC application process. DHC will review requests for Reasonable Accommodations provide for individuals with disabilities to be able to utilize the application process. Approval for Reasonable Accommodations will be based upon guidelines in Chapter 2, which provides a full discussion of DHC's policies related to providing reasonable accommodations for people with disabilities.

2. Limited English Proficiency

DHC will take reasonable steps to ensure meaningful access to their programs and activities by persons with limited English proficiency. Chapter 2 provides a full discussion of DHC's policies related to ensuring access to people with limited English proficiency.

## 4-1 C. PLACEMENT ON THE WAITING LIST

DHC will accept applications from families when a voucher waiting list is open. No applicant has a right or entitlement to be listed on any DHC waiting list, or to any particular position on any DHC waiting list.

1. Eligibility for Placement on the Waiting List

Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility must be made when the family is selected from the waiting list and before issuance of the voucher. Applicants will be placed on the waiting list according to any preference(s) to which they indicate they qualify, and the date and time of their complete pre-application.

## PART II: MANAGING THE WAITING LIST

In the case of disputes on eligibility/ineligibility criteria that are pending the outcome of legal proceedings, i.e., currently under appeal in a court of law, DHC will determine the family to be ineligible at that time. If the legal decision is rendered that the person did meet the eligibility factors, DHC shall restore the application to the original date and time and reinstate the applicant to any other preference factors that DHC has adopted. Reinstatement will occur within sixty (60) calendar days of the final court decision. However, DHC requires that the family submit the legal documents within 30 calendar days of the court decision. If the family fails to submit proof of the court's decision within 60 calendars days of the decision, DHC will consider the matter closed and further

review will not be made. If the legal decision is that the person did not meet the eligibility factors, there is no further action required by DHC.

## 4-2 A. ORGANIZATION OF THE WAITING LIST

DHC's HCV, Mod-Rehab, and Project Based waiting lists are organized in such a manner to allow DHC to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this Admin Plan.

The waiting list at a minimum shall contain the following information for each applicant listed:

- Applicant full legal name
- Address
- Social Security Number
- Date of Birth
- Date and time of application submission
- Selection of any local preferences
- Estimated annual household income
- Racial or ethnic designation of the head of household
- Need for a reasonable accommodation
- Disability Status
- Homeless Status

DHC will maintain one HCV waiting lists for all jurisdictions it serves. DHC will not merge the HCV waiting list with any other waiting list it administers.
Local Preference for the HCV Program will not be applicable to the Mod-Rehab and the Project-Based Voucher Programs. Applications will be selected by the date and time of submission of the waitlist application. Applicants can view their waiting list status through the DHC Applicant portal.

A family that applies for assistance from the HCV program will be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher, moderate rehabilitation, or special programs (FUP, Mainstream)- program DHC operates if the other programs' waiting lists are open. A family's decision to apply for, receive, or refuse other housing assistance will not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

1. <u>Random Number/Lottery Placement Method for the HCV Waiting List</u>

All applications will be held until the date the waiting list closes. All applications received will be randomly numbered and the number entered on the application. For example, if 1,000 applications are received, the applications will be randomly numbered from 1 to 1,000.

DHC staff or a DHC designee will develop a random number table based on the number of applications received. A DHC executive level employee will review and approve the random number table. The random number in the table will be associated with the random number noted on each application. For example, if the random number on the application is 200 and the random table identifies 200 as number 1, the application with the number 200 will be the first application entered on the waiting list.

All applications will be re-numbered in accordance with the random number table for placement on the waiting list and placed on the waiting list according to the random number table and entered by date and time of entry. For example, the first application may be entered on June 1 at 8:00 am, and the second application entered on June 1 at 8:01 am, etc. This original date and time order will remain the same for each application regardless of local preferences.

## 4-2B. MODERATE REHABILITATION

The Moderate Rehabilitation Program ("Mod Rehab") is a site-based subsidy for privately owned apartment complexes. The program allows DHC to establish Housing Assistance Payment Contracts with the owner for specific units and the subsidy remains with the unit. Vacant units under contract must be rented to eligible families referred from DHC's waiting list. If DHC is unable to refer a sufficient number of interested applicants from the waiting list to the owner within 30 days of the owner's notification to DHC of a vacancy, the owner may advertise or solicit applications and refer clients to DHC to determine eligibility.

DHC will develop and implement a Moderate Rehabilitation Program Procedures Guidebook to facilitate Mod Rehab management.

Owners of properties participating in Mod Rehab will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC. The owner's Tenant Selection Plan must include:

Project eligibility requirements:
- Project-specific requirements
- Income limits
- Procedures for accepting applications from the waitlist
- Procedures for applying any preferences
- Applicant screening criteria
    - Required drug-related or criminal activity criteria.
    - Other allowable screening criteria; and
- Procedures for rejecting ineligible applicants
- Occupancy standards
- Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur

• Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes
• Marketing Plan

## 4-2 C. OPENING AND CLOSING WAITING LIST

1. Opening the Waiting List

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

DHC will announce the opening of the waiting list at least 10 business days before the date applications will first be accepted. If the list is only being opened for certain categories of families, this information will be contained in the notice. DHC will give public notice by publishing the relevant information in suitable media outlets including, but not limited to:

- Local papers of general circulation.
- Minority papers of general circulation.
- DHC's website.

This applies to the HCV Program, the Moderate Rehabilitation Program, and all other HCV-PBV programs administered by DHC.

2. Closing the Waiting List

DHC may close a waiting list if it has an adequate pool of families to use its available HCV funding. Alternatively, DHC may elect to continue to accept applications only from certain categories of families that meet particular preferences or funding criteria. The closing date of a waiting list may be announced at the same time the opening date is announced.

This applies to the HCV Program and all other HCV-PBV programs administered by DHC.

3. Family Unification Program (FUP)

The HCV waitlist will remain open to applicants meeting the eligibility criteria for the FUP administered by DHC. The FUP-eligible family or youth must be referred by a Public Child Welfare Agency (PCWA) in order to apply for this program.

A FUP-eligible family is a family that the PCWA has certified as a family for whom lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of- home care, or in the delay of discharge of a child, children, to the

family from out of home care, and that DHC has determined is eligible for a Housing Choice Voucher.

A FUP-eligible youth is a youth who the PCWA has certified to be at least 18 years old and not more than 21 years old (has not reached his/her 22nd birthday) who left foster care at age 16 or older.

4. Mainstream Disabled Program (MSD)

The HCV waitlist will remain open to applicants meeting the eligibility criteria for the MSD program administered by DHC.

## 4-2 D. FAMILY OUTREACH

DHC will conduct outreach, as necessary, to ensure DHC has a sufficient number of applicants on the waiting list to use the HCV resources allotted to DHC. DHC outreach efforts will be designed to inform families about the availability of assistance under the DHC voucher programs. These efforts may include, as needed, any of the following activities:

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

## 4-2E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

While the family is on the waiting list, the family must inform DHC of changes in contact information, including current residence, mailing address, and phone number, within 10 business days of the change. The family must also report any changes that might occur in their preference eligibility. The changes are to be completed through the DHC Applicant Portal. Failure to do so may result in removal of the family from the waiting list.

## 4-2F. UPDATING THE WAITING LIST

Waiting lists may be updated to ensure that all applicants and applicant information is current and timely. To update the waiting list, DHC will send an update request, via first class mail, to each family on the waiting list to determine whether the family continues to be interested in the voucher program. This update request will be sent to the last address that DHC has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response maybe in writing and may be delivered by mail or other means as DHC prescribes within its notice to the applicant. Responses can also be completed through the DHC Applicant portal. Responses must be received by DHC not later than 10 business days from the date of DHC's update request. If the family fails to respond within 10 business days, the family's application will be removed from the waiting list without further notice, and the applicant will have no right to an informal review. If the notice is returned by the post office, the applicant will be removed from the waiting list without further notice, and the applicant will have no right to an informal review.

If a family is removed from the waiting list for failure to respond, the Chief Operating Officer of Rental Assistance, or designee, may reinstate the family if s/he determines the lack of response was due to DHC error or to circumstances beyond the family's control. The family must offer specific and compelling documentation to substantiate its claim. If the applicant did not respond to DHC's request because of a family member's disability, DHC may reinstate the family on the waiting list if the disability is substantiated in accordance with the reasonable accommodation process established in Chapter 2.

In all cases, the family must make a written request to be reinstated to the list within sixty (60) calendar days of the date the family was removed from the list.

## 4-2G. REASONABLE ACCOMODATIONS

If requested as a reasonable accommodation for a person with a disability, an extension of 10 business days to respond to the update request may be granted upon review of the request in accordance with Chapter 2 of this Admin Plan.

## 4-2 H. REMOVAL FROM THE WAITING LIST

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

If a family is removed from the waiting list because DHC has determined the family is not eligible for assistance, a notice must be sent to the family's address of record provided on the initial application or updated address as has been submitted by the family. The notice will state the reason(s) the family was removed from the waiting list and will inform the family if they are eligible to request an informal review and how to request such review regarding DHC's decision (see Chapter 16).

## PART III: SELECTION FOR HCV ASSISTANCE

## 4-3 A. OVERVIEW

As vouchers become available, families on the waiting list will be selected for assistance in accordance with the policies described in this part. The order in which families receive assistance from the waiting list depends on the selection method chosen by DHC and is impacted in part by any selection preferences that the family qualifies for. The source of HCV funding also may affect the order in which families are selected from the waiting list.

DHC will maintain a clear record of all information required to verify that the family is selected from the waiting list according to DHC's selection policies.

## 4-3 B. SELECTION AND HCV FUNDING SOURCES

1. Special Admissions

HUD may award funding for specifically named families living in specified types of units, e.g., a family that is displaced by demolition of public housing; a family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

If HUD awards DHC funding that is targeted for families living in specified units:

- DHC will use the assistance for eligible families living in these units; and
- DHC may admit such a family that is not already on DHC's waiting list, or without considering the family's current waiting list position.

DHC will maintain separate records of these admissions that demonstrate that the family was admitted with HUD-targeted assistance.

2. Selection Method

DHC will describe the method for selecting applicant families from the waiting list, including the system of admission preferences that DHC will use.

3. Local Preferences

DHC is permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits DHC to establish other local preferences, at its discretion. Any local preferences established must be consistent with DHC's Admin Plan and the consolidated plan and must be based on local housing needs and priorities.

DHC will select families from the HCV Tenant Based Waiting List based on the following preferences using a point system:

- Families terminated from DHC's HCV program due to insufficient funding 50 Points
- Families displaced by a natural disaster or government action 30 Points
- Mainstream Disabled 25 Points

**Verification of Preference**

**All preferences will be verified. For example, the preference associated with insufficient funding will be validated through DHC's termination records and notices. Persons claiming displacement by natural disaster or government action will have to provide acceptable government documentation such as FEMA status. Persons claiming MSD classification will be verified for specific program requirements.**

The preferences identified below are unique in classification and require specific program referrals. The preference selection is also limited to specific number or annual allocation based on the classification.

The referral applicants with these preferences will be placed on program specific waiting lists with a priority (point) selection based on funding availability following an annual selection of 200 names from the DHC traditional HCV Tenant Based Waiting list. DHC has established a point system to determine applicant selection based on the severity of housing need. Selection from the referral program waiting lists will be identified through the following point system:

- Displacement by DHC: 20 points
- VAWA Victims: 15 points
- Victims of Human Trafficking: 13 points
- Displaced Families with a Child(ren) Six of Younger with Elevated Blood Lead Levels: 12 points
- Homeless and Transitioning from Permanent Supportive Housing: 10 points
- VASH Voucher Holders Transitioning from Permanent Supportive Housing: 5 points

The selection of applicants will follow the order of date and time based on receipt of the completed referral. Based on the uniqueness of the programs and the referral requirement an applicant should be listed on one list. An applicant could be and will remain on the traditional HCV Tenant Based Waiting list.

**Local Preference Related to the Mainstream Disabled Voucher Program (MSD Program)**

The mainstream disabled program is a target funded program requiring a preference to the tenant-based voucher waiting list for 75 vouchers. A preference is available for up to 75 vouchers to families that include non-elderly, (persons 18 to under 62 years of age at

contract) persons with disabilities. DHC will provide an admission preference to MSD Program-eligible households that are in one or more of the following groups:

a. Transitioning out of institutional or other segregated settings.
b. At serious risk of institutionalization.
c. Currently experiencing Homelessness in Wayne and Macomb County.
d. Previously experienced homelessness and is a resident of permanent supportive housing or a rapid rehousing project in Wayne and Macomb County.
e. At risk of experiencing homelessness in Wayne and Macomb County.

A preference does not guarantee program eligibility.

DHC has established partnerships with the following four partners: The Out-Wayne Continuum of Care (Out-Wayne COC), the Detroit Continuum of Care (Detroit COC) the Macomb County Continuum of Care (Macomb COC) and The Information Center (TIC).

DHC will enter an agreement with each of its partners. Each agreement will be established based on the population to be served. The terms and conditions of each agreement must be agreed to and signed by DHC's Executive Director. DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any federally protected class under fair housing laws.

The waitlist for this preference will never close.

**Local Preference Related to Homelessness and Transitioning from Permanent Supportive Housing**

DHC will provide housing assistance with up to 225 vouchers per year through the Housing Choice Voucher Program to eligible persons who are referred for assistance through formal agreements with partnering organizations. All applicants assisted in this category must apply with and be referred to DHC by an agency, organization, or consortia, that provides services to the homeless with which DHC has a formal agreement. Each agreement will be established based on the population to be served and the terms and conditions presented to and agreed upon by the Executive Director. DHC has the right to limit the number of partner organizations to insure administrative efficiency. DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any Federally protected class under fair housing laws.

In furtherance of its fight against homelessness, a local preference is available for families that "participate in a homeless program" or that are "transitioning from permanent supportive housing" and are referred to DHC by an organization with which DHC has a formal agreement. The waitlists for these categories will never close.

**Local Preference Related to VASH Voucher Holders Transitioning from Permanent Supportive Housing**

A local preference is available for families receiving VASH assistance who no longer require permanent supportive housing as mutually agreed upon by the adult family members and MSHDA and the area VA Medical Center. The transition from permanent supportive housing requires the family to have participated in the VASH program for the last five years. The family must be referred to DHC by an agency, organization, or consortia with which DHC has a formal partnering agreement. The terms and conditions of all agreements will be based on the population to be served. Agreements must be signed by DHC's Executive Director. DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any Federally protected class under fair housing laws.

DHC will provide housing assistance under this preference with up to 25 tenant-based vouchers per year through the Housing Choice Voucher Program. All families assisted under this preference must be referred to MSHDA and the area VA Medical Center by an agency, organization, or consortia with which DHC has a formal agreement. MSHDA and the area VA Medical Center must jointly approve and refer the family to DHC. DHC will enter formal agreements with MSHDA and the area VA Medical Center. These agreements must be signed by DHC's Executive Director.

This preference will have equal weight to other preferences but will be maintained on waitlist(s) separate from DHC's other HCV waitlists. The waitlist(s) for this preference will never close.

**Local Preference – Displacement by DHC:**

A resident who is displaced from a DHC-owned public housing property as a result of a failure of a building system, fire, flooding, environmental or other failure beyond DHC's control and where DHC has no suitable, available DHC-owned public housing replacement unit will be eligible for a local preference to receive a voucher from the Housing Choice Voucher Program upon referral by DHC. The preference does not guarantee program eligibility. Applicants will not be referred if alternate public housing accommodations have been offered and refused by the resident. Referral is limited to events where the Executive Director has approved the use of the preference in writing. The preference is limited to 50 vouchers annually. There will be a separate waitlist for this preference. The waitlist will never close.

**Local Preference Related to VAWA Victims**

DHC will offer a preference to families that include victims of domestic violence, dating violence, sexual assault, or stalking who has either been referred by a partnering service agency, a consortium, the Director of DHC's Resident Services or is seeking an emergency transfer under VAWA from the DHC's public housing program when the

public housing program cannot accommodate the transfer or other covered housing program operated by the DHC. DHC will provide housing assistance with up to 25 vouchers per year to eligible persons.

All applicants assisted in this category must apply with and be referred to DHC by an agency or partnering organization which DHC has a formal agreement. All applicants must complete the required certification and provide documentation required to support Domestic Violence, Sexual Assault, Dating Violence and Stalking (HUD form-5382, HUD form-5380) and Third-Party Documentation of Victim Status. During the application process the applicant must certify that the abuser will not reside in the household for any period of time unless the PHA gives prior written approval.

Un-emancipated minors would not be eligible to sign leases under HUD programs. DHC may consider contacting child welfare, child protective services, or law enforcements, when a minor claim to be a victim of domestic violence, dating violence, sexual assault, or stalking. Guest, unassisted members and live-in aides of the family are ineligible for VAWA protections which are available only to tenants and participants. The applicant must certify that the abuser will not reside with the applicant unless the PHA gives prior written approval.

DHC will not accept referrals from an agency, organization or consortia that deny its services to members of any Federally protected class under fair housing laws.

**Local Preference Related to Victims of Human Trafficking**

DHC will offer a preference to families who include victims of human trafficking which is the action of practice of illegally transporting people typically for the purposes of forced labor or commercial sexual exploitation.

DHC will provide up to 10 tenant-based vouchers per year for this preference. The preference does not guarantee eligibility for the HCVP. All families assisted under this preference must apply with and be referred to DHC by an organization with which DHC has a formal partnering agreement. All families must provide documentation of Human Trafficking victim status.

DHC will only accept referrals from an agency, organization, or consortia with which DHC has a formal agreement. The terms and conditions of the agreements will be based upon the population served. DHC has the right to limit the number of partneragencies, organizations, and consortia to ensure administrative efficiency.

DHC will not accept referrals from an agency, organization or consortia that denies its services to members of any Federally protected class under fair housing laws

There will be a separate waitlist for this preference. The waitlist will never close.

**Local Preference Related to Displaced Families with a child(ren) Six or Younger with Elevated Blood Lead Levels**

DHC will offer a preference to families with a child(ren) six or younger who has elevated blood lead levels of 5 micrograms of lead per deciliter of blood as verified by the local Health Department where the families have been displaced from their permanent housing. The families must reside in DHC's HCVP jurisdiction which consists of Wayne, Oakland, Macomb, Lapeer, and St. Clair counties. The families must have been displaced due to lead exposure and the owner of the housing's inability to control the lead-based hazards.

DHC will provide up to 10 tenant-based vouchers per year for this preference through the HCVP. The preference does not guarantee eligibility in the HCVP.

All families must apply and be referred to DHC by the local Health Department or through the HUD- mandated Healthy Home Program. DHC will establish formal agreements. The terms and conditions of the agreements will be based upon the population served.

The waitlist for this category will never close.

4. Income Targeting Requirement

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

Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act, as well as low-income or moderate-income families admitted to the program that are displaced as a result of the pre-payment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes.

DHC will monitor progress in meeting the ELI requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income-targeting requirement is met. If there are not enough ELI families on the waiting list, DHC may conduct special outreach to attract ELI families to the program to meet the statutory requirements.

5. Order of Selection

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with DHC's hierarchy of preferences. Within each targeted funding or preference category, families will be selected according to the date and time their complete application is received by DHC

or the random order as indicated in the Random Number/Lottery Placement Method for the HCV Waiting List selection.

Within the targeted funding or preference category documentation will be maintained by DHC as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so DHC does not have to ask the higher placed applicant each time targeted selections are made.

DHC is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list.

6. Notification of Selection

DHC will notify the family through any of the following methods, first class mail, email, telephone when it is selected from the waiting list. DHC may also send phone text messages to families as an advance notification. The notice will inform the family of the following:

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview.
    - If the interview is scheduled as a video meeting DHC will manage the process of arranging the media and format and attendees. DHC will address all reasonable accommodation needs and make technological equipment available if required.
- Who is required to attend the interview?
- Documents that are required at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation.
- Documentation to verify eligibility preferences claimed; and
    - Other documents and information as requested. All required documentation can be sent to DHC through the US Mail, fax, email or uploaded to the DHC Applicant portal.

If a first-class notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. DHC will keep a record of all phone calls, voice message and time/date of emails with no response. A notice of denial will be sent to the family's address of record, as well as to any known alternate address.

4-3C. THE ELIGIBILITY INTERVIEW

Being invited to attend an interview does not constitute admission to the program.

Families selected from the waiting list are required to participate in an eligibility interview. The head of household and all household members eighteen (18) and older should be present for the interview; exceptions may be made for military personnel and full-time students. Verification of information pertaining to adult members of the

household not present at the interview must not begin until signed release forms are returned to DHC.

The interview will be conducted only if the head of household and ALL household members eighteen (18) and older provide appropriate current government issued, picture ID to document legal identity. Chapter 7 provides a discussion of proper documentation of legal identity. If the family representative does not provide the required documentation for proof of legal identity, the appointment may be rescheduled when the proper documents have been obtained. The appointment must be rescheduled within 30 calendar days.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing all required forms, providing required signatures, and submitting required documentation. If any materials are missing, DHC will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within10 business days of the interview. Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible non-citizen status. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame plus any extensions, the family must be sent a notice of denial. (See Chapter 3). Extensions shall be for a time period not to exceed an additional 10 business days for the family to provide required documents. Any additional extensions of this policy may be granted at the discretion of the Chief Operating Officer of Rental Assistance or designee.

An advocate, interpreter, or other assistant may assist the family with the application and the interview process. In all circumstances, if a family does not attend a scheduled interview, DHC will send another notification letter with a new interview appointment time. The notification process may include First Class Mail, email, telephone, and telephone text message advance notice. The second interview appointment will usually be scheduled within 10 business days of the initial appointment. Applicants who fail to attend two (2) scheduled interviews, or if the second notification letter is returned to DHC, the family will be removed from the waiting list without any further notification and without right to an informal review.

## 4-3D. COMPLETING THE APPLICATION PROCESS

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

If DHC determines the family is ineligible, DHC will send written notification of the ineligibility determination within 15 business days of the determination. The notice will specify the reasons for ineligibility and will inform the family if they have a right to request an informal review (Chapter 16).

If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list, e.g., targeted funding, extremely low-income, etc., the family will bereturned to its original position on the waiting list. DHC will notify the family, in writing, that it has been returned to the waiting list, and will specify the reason(s). If DHC determines that the family is eligible to receive assistance, DHC will invite the family to attend a briefing in accordance with the policies in Chapter 5.

# CHAPTER 5

# BRIEFINGS AND VOUCHER ISSUANCE

## INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the HCV Program, DHC will ensure that the family fully understands the way the HCV Program operates and the family's obligations under the HCV Program. This is accomplished through both an oral briefing and provision of a briefing packet containing written documentation of information the family needs to know. The briefing will provide a broad description of owner and family responsibilities, DHC procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the HCV Program, including the benefits of moving outside areas of high poverty concentration. Once the family is fully informed of the HCV Program's requirements, DHC will issue the family a voucher. The voucher has no monetary value. The voucher includes the unit size that the family qualifies for based on DHC's subsidy standards, as well as the dates of issuance and expiration of the voucher. The voucher is the document that permits the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit

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

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

**Part II: Subsidy Standards and Voucher Issuance**. This part discusses DHC's standards for determining voucher size. It also discusses the policies that dictate how vouchers are issued, and how long families have to locate a unit.

## PART I: BRIEFINGS AND FAMILY OBLIGATIONS

## 5-1A. OVERVIEW

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

## 5-1B. BRIEFING [24 CFR 982.301]

DHC will give the family a briefing and provide the family with a briefing packet containing written information about the HCV Program. Families may be briefed individually or in groups. At the briefing, DHC will ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2. DHC may conduct individual briefings for families with disabilities at their home, if other arrangements cannot be made, and if required as a reasonable accommodation.

The purpose of the briefing is to explain the documents in the Voucher Briefing Packet so that the family is fully informed about the HCV Program. This will enable the family to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

1. Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing. If the notice is returned by the post office, the applicant will be denied and removed from the waiting list. The head of household, co-head or spouse is required to attend the briefing. Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The second briefing will usually be rescheduled within 30 calendar days of the first date. DHC will notify the family of the date and time of the rescheduled briefing. Applicants who fail to attend two scheduled briefings, without DHC approval, will be denied assistance (see Chapter 3) and sent a notice of denial with no right to an informal review.

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

2. Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the HCV Program works.
- Family and owner responsibilities.
- Where the family can lease a unit, including renting a unit inside or outside DHC's jurisdiction.
- An explanation of portability. DHC will not discourage eligible families from moving under portability; and
- An explanation of the advantages of moving to areas outside of high-poverty concentrations.

When DHC-owned units are available for lease, DHC will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease and

is not obligated to choose a DHC-owned unit. Units designated as public housing do not qualify for HCV assistance.

3. Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packets will comply with all HUD requirements. Documents and information provided in the briefing packet must include the following:

- The term of the voucher and DHC's policies on any extensions or suspensions of the term. If DHC allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how DHC determines the payment standard for a family, how DHC determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how DHC determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit including 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 DHC policy on providing information about families to prospective owners.
- DHC subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- 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, including the pamphlet "Fair Housing: It's Your Right". DHC will also include a complaint form and information on how to complete it and information on how to report suspected discrimination 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 families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to DHC.
- The family's obligations under the HCV Program. The grounds on which DHC may terminate assistance for a participant family because of family action or failure to act.
- DHC informal hearing procedures including when DHC is required to offer a participant family the opportunity for an informal hearing and how to request the hearing.
- The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.

DHC may provide information on the Family Self-Sufficiency &Homeownership Programs.

- The form HUD-5380, Domestic Violence Certification form

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

## 5-1 C. FAMILY OBLIGATIONS

Obligations of the family are described in the HCV regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. When the family's unit is approved and the HAP Contract is executed, the family must meet those obligations in order to continue participating in the HCV Program. Violation of any family obligation may result in termination of assistance, as described in Chapter 12.

1. Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify DHC of a change, notifying DHC of the request or change within 10 business days is considered prompt notice. When a family is required to provide notice to DHC, the notice must be in writing.

2. Family Obligations [24 CFR 982.551]

Following is a listing of a participant family's obligations under the HCV Program:

- The family must supply any information that DHC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status.

- The family must supply any information requested by DHC or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition in accordance with HUD requirements.

- The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information.

- All information supplied by the family must be true and complete.

- The family is responsible for an HQS breach caused by the family or a guest.

- The family must allow DHC to inspect the unit at reasonable times and after reasonable notice.

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

- The family must notify the owner and, at the same time, notify DHC before the family moves out of the unit or terminates the lease upon notice to the owner.

- The family must give DHC a copy of any owner eviction notices within 10 business daysof receipt.

- 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 DHC. The family must promptly inform DHC of the birth, adoption, or court-awarded custody of a child. The family must obtain owner and DHC approval to add a new member tothe household.

- The family must notify DHC within 10 business days if any family member no longer resides in the unit.

- If the family does not request approval or DHC 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 and the family has the owner's written approval of the activities.

- The family must not sublease or let the unit.

- The family must not assign the lease or transfer the unit.

- The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the Housing Programs.

- The members of the family 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.

- Family members must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

- 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 supply any information or certification requested by DHC to verify that the family is living in the unit, or relating to family absence from the unit, including any DHC-requested information or certification on the purposes of family absences.

- A family must not receive HCV Program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the assisted family, unless DHC has determined and has notified the owner and the family of such determination in writing, that approving rental of the unit, notwithstanding such relationship, would provide a reasonable accommodation for a family member who is a person with disabilities or the family is participating in the HCV Homeownership Program.

DHC will determine if a family has committed serious or repeated violations of the lease based on available evidence. Serious and repeated lease violations will include, but not be limited to, non-payment of rent, disturbance of neighbors, destruction of property, and living or housekeeping habits that cause damage to the unit or premises.

3. Other Family Obligations

In addition to the family obligations specified above:

- The family must pay utility bills and provide and maintain any appliances the owner is not required to provide under the lease. If the participant is responsible for paying any utilities, then the applicable utility must be in the name of an adult family member receiving assistance in the unit. If there is a change in the responsible party for paying the utility, then the responsible party must provide evidence to DHC's satisfaction that the utility is in the name of the responsible party. The Head of Household can provide evidence of a joint account (co-signor) if required by the utility company. The responsible party has 60 calendar days to provide evidence of the change.

- The family must comply with any repayment agreement entered with the landlord.

- The family must pay any amounts owed to DHC or other PHA.

4. Time Frames for Reporting Changes Required By Family Obligations

Unless otherwise noted below, when family obligations require the family to respond to a request or notify DHC of a change, notifying DHC of the request or change within 10 business days is considered timely notice. When a family is required to provide notice to DHC, the notice must be in writing.

## PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

### 5-2 A. OVERVIEW

When funding is available, DHC will issue vouchers to eligible applicants. DHC will establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size, also known as the voucher size, a particular family should receive, and the policies that govern making exceptions to those standards. DHC also must establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of that term.

### 5-2 B. DETERMINING FAMILY UNIT (VOUCHER) SIZE [24 CFR 982.402]

DHC does not determine who shares a living/sleeping room. DHC‘s subsidy standards for determining the family unit size shall be applied in a manner consistent with fair housing guidelines. All standards in this section relate to the size of the subsidy, not the family’s actual living arrangements.

HUD regulations stipulate the following about DHC‘s subsidy standards:

- The subsidy standards must provide for the smallest number of bedrooms (referring here to the subsidy) needed to house a family without overcrowding.
- They must be consistent with space requirements under HQS, which require at least one living/sleeping room for every two persons.
- They must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.

Any live-in aide, approved by the DHC to reside in the unit to care for a family member who is disabled or is at least 50 years of age, must be counted in determining the voucher unit size. DHC will give a participant up to six months to identify an eligible Live-In-Aide before reversing the decision.

Persons aged six (6) or older of the same gender will generally be assigned one bedroom. Non-parental adults (age 18) may not be required to share a room with children. Adults of the same gender may be required to share a room within the following guidelines:

- Live-in aides will be provided a separate bedroom if the assisted unit is the aide ‘sprimary residence. No additional bedrooms will be provided for the aide ‘s family.
- Additional family members of the live-in aide may not be approved if it would result in the violation of HQS.
- A single person will be allocated a one-bedroom subsidy.
- Head of household and spouse will be allocated one bedroom.
- Head of household and other adult sharing a parental relationship will be allocated one bedroom.
- Two children, regardless of gender, under the age of six (6) will be allocated one bedroom
- Non-head of household parent with a child under the age of 6 will be allocated a bedroom.

DHC will reference the following chart in determining the appropriate voucher size for a family:

| Voucher Size | Persons in Household (Minimum Number) | Persons in Household (Maximum Number) |
|---|---|---|
| Efficiency | 1 | 1 |
| 1 Bedroom | 1 | 3 |
| 2 Bedroom | 2 | 4 |
| 3 Bedroom | 3 | 7 |
| 4 Bedroom | 5 | 9 |
| 5 Bedroom | 7 | 11 |
| 6 Bedroom | 10 | 13 |

## 5-2C. VOUCHER ISSUANCE/PREFERRED UNIT SIZE

A participant may select a smaller size unit than the size listed on the voucher. If so, the payment standard for the smaller size unit shall be utilized. If DHC errs in the bedroom size designation, the family will be issued a voucher of the appropriate size.

## 5-2 D. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, DHC may grant an exception to its established subsidy standards if DHC determines that the exception is justified by the age, sex, health, disability, or relationship of family members or other personal circumstances. Reasons may include, but are not limited to:

- A need for an additional bedroom for medical equipment.
- A need for a separate bedroom for reasons related to a family member's disability, medical or health condition.
- For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom.

The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source unless the disability and the disability–related request for accommodation is readily apparent or otherwise known.

DHC will notify the family of its determination within 15 business days of receiving the family's request or of the receipt of any documentation requested to verify the request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

## 5-2E. VOUCHER ISSUANCE [24 CFR 982.302]

This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that DHC has determined the family to be eligible for the program, and that DHC expects to have money available to subsidize the family if the family finds an approvable unit. However, DHC does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in DHC's HCV Program.

A voucher can be issued to an applicant family only after DHC has determined that the family is eligible based on information received within the 60 days prior to voucher issuance [24 CFR 982.201(e)] and after the family has attended a mandatory oral briefing. Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

Before issuing vouchers, DHC will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16. If DHC determines that there is

insufficient funding after a voucher has been issued, DHC may rescind the voucher and place the affected family back on the waiting list.

1. Voucher Issuance Determination for Split Households

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. In the absence of a judicial decision, or an agreement among the original family members, DHC will determine which family will continue to receive assistance taking into consideration the following factors:

(1) the interest of any minor children, including custody arrangements.
(2) the interest of any ill, elderly, near elderly, or disabled family members.
(3) the relationships or custody arrangements.
(4) school records.
(5) any possible risks to family members as a result of domestic violence or criminal activity; and
(6) the recommendations of social service professionals.

2. Retention of Voucher for Remaining Family Member

To be considered the remaining family member, a person must be currently approved by DHC as an authorized member of the family composition and must be currently living in the unit. A live-in aide, by definition, is not a member of the family and will not be considered a remaining family member.

In order for a minor child to continue to receive assistance as a remaining family member, the court must have awarded emancipated minor status to the minor, or DHC has to have verified that the appropriate agency has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period. A reduction in family size may require a reduction in the voucher size, at the next annual re-examination or move, whichever occurs first.

At any time that custody or guardianship legally has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. This process will continue as needed until the last minor child reaches age 18. Once all minor children are no longer remaining with the caregiver and if the last remaining minor child does not take possession of the HCV, the voucher will expire within 180 days of last child leaving the subsidized unit.

## 5-2F. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS

1. Voucher Term [24 CFR 982.303]

The initial voucher term will be a minimum of 60 calendar days and will be stated on the voucher. The family must submit a Request for Tenancy Approval and a proposed lease within the initial voucher period unless DHC grants an extension.

2. Extensions of Voucher Term [24 CFR 982.303(b)]

DHC will approve additional extensions only in the following circumstances:

- If it is necessary as a reasonable accommodation for a disabled person.
- If it is necessary due to reasons beyond the family's control, as determined by DHC. Following is a list of extenuating circumstances that DHC may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:
    - Serious illness or death in the family
    - Other family emergency
    - Obstacles due to employment
    - Whether the family has already submitted requests for tenancy approval that were not approved by DHC
    - Whether family size or other special requirements make finding a unit difficult

Generally, any request for an extension must be in writing and include the reason(s) the extension is necessary. DHC may require the family to provide documentation to support the request. Oral extension requests may be approved by the Director of Assisted Housing or designee on a case-by-case basis as a reasonable accommodation to participants with disabilities. All requests for extensions to the voucher term must be submitted to DHC before the expiration date of the voucher or the extended term of the voucher.

DHC will decide whether to approve or deny an extension request within 10 business days of the date the request is received and will immediately provide the family written notice of its decision. DHC may grant one or more extensions of the term, but the initial term plus any extensions will not exceed 120 calendar days from the initial date of issuance without an extraordinary reason. DHC's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

3. Suspensions of Voucher Term [24 CFR 982.303(c)]

When a Request for Tenancy Approval is received by DHC, the term of the voucher will be suspended while DHC processes the request. The suspension ends when DHC notifies the family in writing whether the request has been approved or denied.

4. Expiration of Voucher Term

If the voucher expires and is not extended by the DHC, or expires after an extension(s), the family will be denied assistance. The family will not be entitled to an informal review. If the family is currently assisted, he/she may remain as a participant in the unit if there is an assisted lease and HAP Contract in effect.

5. Assistance to Voucher Holders During Search

Voucher holders will be notified at the briefing that DHC periodically updates the listing of available units and how the updated list may be obtained. DHC will assist families with negotiations with owners and provide other assistance related to the families' search for housing, including assistance in locating units outside of areas of high poverty concentration. DHC recommends the family maintain a search record. It may be useful if the family requests an additional extension.

# CHAPTER 6

# INCOME AND SUBSIDY DETERMINATIONS

## INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's payment and DHC's subsidy. DHC 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 DHC policies related to these topics in three parts as follows:

**Part I: Annual Income.** The sources of income to include and exclude to arrive at a family's annual income and DHC policies for calculating annual income are found in Part I.

**Part II: Adjusted Income.** Once annual income has been established DHC subtracts from annual income any of five mandatory deductions for which a family qualifies. DHC policies for calculating adjusted income are found in Part II.

**Part III: Calculating Family Share and DHC Subsidy**. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining DHC subsidy and the required family rent to owner.

## PART I: ANNUAL INCOME

### 6-1 A. OVERVIEW

*Annual income* means all amounts, monetary or non-monetary, which:

(1) Go to, or on behalf of, the family head of household, co-head, or spouse, evenif 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 the annual re-examination date; and
(3) Which are not specifically excluded by Federal Regulations [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.

The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

## 6-1B. HOUSEHOLD COMPOSITIONS 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 |
| Foster child or foster adult | Income from all sources is excluded |
| Head of household, spouse, or co-head<br>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 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 of household, spouse, or co-head) | Employment income above $480/year is All other sources of income, except those specifically excluded by the regulations, are included. |

## 6-1C. TEMPORARILY ABSENT FAMILY MEMBERS

The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

1. Definitions of Temporarily and Permanently Absent

An individual who is or is expected to be absent from the assisted unit for 180 consecutive days or less is considered *temporarily absent* and continues to be considered a family member.

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

2. Absent 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 DHC indicating that the student has established a separate household, or the family declares that the student has established a separate household.

The family will be required to substantiate the student has a separate household via third party verification, i.e., lease, utility bills, income tax statements, or notarized statement.

3. Absence Due to Military Service

DHC provides deployed military persons will special consideration related to their absence from the subsidized unit. DHC has adopted the following guidelines related to determining the status of household members absent due to military deployment:

1. DHC will consider an adult child who goes into the military and leaves the household temporarily absent if the deployment is 24 months or less. The adult child who goes into the military and leaves the household will be considered permanently absent if the deployment is 24 months or more.

2. In cases where a military member is a single head of household and is deployed for military duty, DHC will continue housing assistance payments to the owner on behalf of a military family, even though all members of the military family are temporarily absent from the assisted unit because a member of the assisted family has been called to active duty. However, program regulation at 24 CFR 982.312 permits family absence from the unit for no more than 180 consecutive days and a DHC may not exceed this regulatory limit.

2. A military spouse is counted as a household member even though absent, and the spouse is not physically residing in the unit. Space will be provided for the spouse who will be absent due to military deployment. The military spouse is not considered to be absent from the household. Space will not be provided for other family members who are deployed in excess of 24 months for military service.

The family will be required to submit documentation to substantiate the military deployment and length of time the military family member is expected to be deployed.

4. Absences Due to Placement in Foster Care

The family will be required to submit documentation to substantiate the length of time the child is to be away from the home.

If the child is not ever expected to be returned to the home (permanent placement in foster care), the child will be removed from the family composition and the family's subsidy standard will be reduced accordingly at the next annual re-examination.

If the agency indicates that it is unknown whether the child will be returned to the home, the child will remain a part of the family composition for a maximum of 180 days and the

family's subsidy standard will be reduced accordingly at the next annual re-examination. Failure, by the family, to report the absence of the child may result in termination from the HCV Program. Family composition will be reviewed at least annually.

If, as part of the family's obligations to return custody, the court requires appropriate bedrooms for the return of the children to the household, DHC shall utilize the court order to determine subsidy standards.

5. Absent Head of Household, Spouse, or Co-Head

DHC will review the reason why the head of household is no longer present and may make a determination to cancel the assistance. If an employed head, spouse, or co-head is absent from the unit more than 180 consecutive days due to employment will continued to be considered a family member.

If neither a parent nor a DHC approved designated guardian remains in a unit, DHC will take the following actions:

- 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 caregiver will not be considered a family member until a determination of custody or legal guardianship is established through the court. Caregiver must provide legal documentation supporting upcoming court dates

- At any time that custody or guardianship legally has been awarded to a caregiver, the housing choice voucher will be transferred to the caregiver upon a determination of program eligibility by DHC. However, the HCV will be returned to the first remaining child upon reaching age 18 as long as that child is awarded legal custody of the remaining minor children. Once all minor children are no longer remaining with the caregiver and did not take possession of the voucher, the voucher will expire within 180 days of last child leaving the subsidized unit.

- During any period that a caregiver is considered a visitor, the income of the caregiver is not counted in annual income and the caregiver does not qualify the family for any deductions from income. DHC will not approve an increase to the voucher size based upon the caregiver's household size.

If the head of household returns to the unit, the caregiver must be removed from the household within 60 days.

Joint Custody of Dependents

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

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

6. All Members Absent from Household

If all members of the household are absent for thirty (30) consecutive days, but have not moved from the unit, and DHC has determined the unit to be abandoned, assistance will be terminated. In order to determine if the family is absent from the unit, DHC may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, statement made by the participant or family member, perform inspections to the unit, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth later in this Admin Plan. Returned mail shall be just cause to make the determination that the unit has been abandoned. Termination of assistance shall occur the last day of the month in which DHC determined the unit to be abandoned.

7. Absent Single-Family Household Member

When the family consists of only one member and that person leaves the home to go into a hospital or nursing home for a period of more than 180 days, the assistance will be terminated. If medical professional documents that the person is expected to return to the unit in 180 days or less, the person shall continue to receive assistance. If the person is not back in the unit within 180 days, assistance will be terminated. Documentation from nursing home or medical facility may be used to determine dates of absences.

8. 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. The voucher size may be changed accordingly to reflect the member's removal.

DHC 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 the family member is confined on a permanent basis and request that the person not be considered a family member.

9. Return of Permanently Absent Family Members

DHC will not approve the return of permanently absent family members except in the case of court action, release from hospitalization, or military members returning from deployment.

DHC will consider the opportunity to return to the contract unit following incarceration based on the following factors:
Criminal Offense
Probation activity and status remains favorable
Relationship to Head of Household, Spouse, or
child
Relationship to minor children if voucher assistance followed the children to a custodial relationship due to incarceration
Owner in willing to allow member to be added to the lease
Voucher will not be available for transfer for five years

DHC will allow individuals who are absent from the housing unit due to pre-trial incarceration, for those sentenced to alternative to incarceration programs, community service or house arrest to remain on the voucher until sentencing concludes.

## 6-1D. LIVE-IN AIDE

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

DHC will approve a live-in aide if needed as a reasonable accommodation to make the HCV Program accessible to and usable by the family member with disabilities.

A live-in aide may only reside in the unit with the prior, written approval of DHC and the owner. Written verification will be required initially and on an annual basis from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker regarding the need for a live-in aide. The verification will specifically state that a live-in aide is essential for the daily care of the family member who is elderly, near elderly or disabled. A live-in aide is not subject to non-Citizen Rule requirements.

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. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a participant family or have any rights to the program. A current family member may become a live-in aide in the unit however they will be removed from the voucher and have no future right to the subsidy.

The approval of a live-in aide shall increase the maximum permitted voucher size by 1-bedroom to accommodate the need for a live-in aide. The live-in aide's family members may also reside in the unit with DHC and the owner's prior, written approval. The presence of the live-in aide's family members must not overcrowd the unit. In the instance that the Live-in aide's family size will be overcrowding the unit, the Live-In Aide

will be denied. (See Chapter 8) DHC will not increase the voucher size to accommodate the live-aide's additional family members.

A live-in aide is a member of the household, not the family, and the income of the live-in aide is not considered in income calculations.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, (2) would not be living in the unit except to provide the necessary supportive services and (3) is not working full-time outside of the home.

## 6-1 E. ANTICIPATING ANNUAL INCOME

Annual income means all amounts, monetary or not, which:

- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- Are anticipated to be received from a source outside the family during the 12-month period following admission or annual re-examination effective date; and
- Which are not specifically excluded by Federal regulations

Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

When third-party documents are used to anticipate annual income, they will be dated within the last 120 days of the re-examination interview date.

1. Basis of Annual Income Projection

DHC generally will use current circumstances to determine anticipated income for the coming 12-month period except when another basis for annual income determination is authorized by HUD. HUD authorizes DHC to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected. DHC defines this time period as 60 days.
- Past income is the best available indicator of expected future income.
- HUD permits other options to determine annual income, including the option to use a family's actual past income. (Tax Returns, EIV, check stubs)

DHC is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information.

When EIV is obtained and the family does not dispute the EIV data, DHC will use current participant-provided documents to project annual income. When the participant-

provided documents are pay stubs, DHC will make every effort to obtain at least 4 consecutive pay stubs dated within the last 60 days.

If DHC uses past actual income, it will use the most recent 12 months of income information available to project annual income. The resident will not be required to provide third-party verification if DHC opts to use past actual income based on EIV. DHC will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in Chapter 7 in the following cases:

- If EIV or other UIV data is not available,
- If the resident has had a change in circumstances,
- If the family disputes the accuracy of the EIV data and is unable to provide acceptable documentation to resolve the dispute, and/or
- If DHC determines additional information is needed.

In such cases, DHC will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DHC annualized projected income.

When DHC cannot readily anticipate income based upon current circumstances, e.g., in the case of seasonal employment, unstable working hours, or suspected fraud, DHC will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to DHC to show why the historic pattern does not represent the family's anticipated income.

2. Known Changes in Income

If DHC verifies a projected increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the 12-month period.

> **Example:** An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case DHC would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 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 DHC may calculate annual income using current circumstances and then require an interim reexamination when the change occurs.

When authorized by HUD, EIV quarterly wages may be used to project annual income at an annual or interim re-examination.

3. Projecting Income

DHC will follow "HUD Guidelines for Projecting Annual Income When Enterprise Income Verification (EIV) Data Is Available" in handling differences between EIV 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 EIV information for a particular income source differs from the information provided by a family by less than $200 per month, DHC will follow these guidelines:

- If the EIV figure is less than the family's figure, DHC will use the family's information.
- If the EIV figure is more than the family's figure, DHC will use the EIV 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, DHC will use the family-provided information.

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

- DHC will request written third-party verification from the discrepant income source.
- When DHC cannot readily anticipate income, e.g., in cases of seasonal employment, unstable working hours, or suspected fraud, DHC will review historical income data for patterns of employment, paid benefits, and receipt of other income.
- DHC will analyze all EIV, third-party, and family-provided data and attempt to resolve the income discrepancy.
- DHC will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income. Data must be current within the last 120 days.

*Temporary Income* is defined as income not anticipated to continue beyond 60 days.
*Sporadic Income* is defined as income received as less than 6 or more pay cycles or clients in a 12-month period.
Non- reoccurring is an event that does not occur more than once.

## 6-1F. EARNED INCOME

1. 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.

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

*Military Pay.* All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

2. Types of Earned Income Not Counted in Annual Income - Temporary, Nonrecurring, or Sporadic Income

This type of income is not included in annual income. 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. If there is a historic trend or stable pattern of working, even if it for limited durations and amounts, then it will be considered income and counted in the calculation. DHC defines a stable pattern of working as work from which income is derived six or more clients or pay cycles within a 12-month period.

DHC may 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.

*Children's Earnings.* Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. 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 of household, spouse, or co-head are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

*Income of a Live-in Aide.* Income earned by a live-in aide is not included in annual income. 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, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973
- Payments received under programs funded in whole or in part under the Job Training Partnership Act Awards under the federal work-study program
- Payments received from programs funded under Title V of the Older Americans Act of 1985
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998
- *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 DHC or the 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 DHC's governing board. No resident may receive more than one such stipend during the same period of time.
- *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.

DHC 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".

DHC 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. In calculating the incremental difference, DHC 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 DHC's interim reporting requirements.

*HUD-Funded Training Programs.* Amounts received under training programs funded in whole or in part by HUD 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.

State and local employment training programs may also qualify as a training program if the program meets the definition of *training program* provided above.

*Earned Income Tax Credit.* Earned income tax credit (EITC) refund payments received on or after January 1, 1991, are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The pro-rated share of the annual EITC is included in the employee's payroll check.

## 6-1G. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES Reference 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. Eligibility criteria and limitations on the disallowance are summarized below.

1. Eligibility

This disallowance applies only to individuals in families already participating in the HCV program. 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. (24CFR5.063)
- 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 cash 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.

2. Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "Baseline Income"

DHC defines baseline income as immediately prior to qualifying for EID

The family member's baseline income remains constant throughout the period that he or she is receiving the EID.

***Initial 12-Month Exclusion.*** During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

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, whether the family reports the earnings or not.

***Second 12-Month***. During the second exclusion period of12-consecutive months the exclusion is reduced to half (50 percent) of any increase in income attributable to employment or increased earnings.

***Lifetime Limitation.*** The EID has a two -year (24) month lifetime maximum The two-year eligibility period begins at the same time that the initial exclusion period begins andends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance or have breaks in assistance.

Any changes to the family income or composition must still be reported by the family within (10) ten business days of the change.

## 6-1H. BUSINESS INCOME

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".

1. Business Expenses

Net income is "gross income less business expense".

To determine business expenses that may be deducted from gross income, DHC will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

2. Business Expansion

DHC cannot 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.

3. Capital Indebtedness

HUD regulations do not permit DHC 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 DHC will allow as a business expense interest, but not principal, paid on capital indebtedness.

4. 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.

5. Withdrawal of Cash or Assets from a Business

HUD regulations require DHC 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, DHC 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.

6. 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.

## 6-1 I. ASSETS

1. Overview

There is no asset limitation for participation in the HCV program. However, DHC must include in annual income the "interest, dividends, and other net income of any kind from real or personal property". This section discusses how the income from various types of assets is determined. For most types of assets, DHC 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

2. General Policies

### a. Income from Assets

DHC 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, DHC may use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected. DHC defines this time period as 60 days.
- Past income is the best available indicator of expected future income.
- HUD permits other options to determine annual income, including the option to use a family's actual past income. (Tax Returns, EIV, check stubs)

For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, DHC can take into consideration past rental income along with the prospects of obtaining a new tenant.

Any time 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 DHC to show why the asset income determination does not represent the family's anticipated asset income. DHC may

accept a self-certification of the value from the resident as sufficient verification of assets when the cash value of assets is less than $5000.

### b. Valuing Assets

The calculation of asset income sometimes requires DHC 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.

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

### c. 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). For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income.

### d. Imputing Income from Assets

When net family assets are $5,000 or less, DHC 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, DHC 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 average passbook saving rate as determined by DHC

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The "safe harbor" is now for the DHC to establish a passbook rate within 0.75 percent of a national average.
- DHC must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

  DHC initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

DHC will review the passbook rate annually the rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time ofthe review.

DHC will obtain third party verification of all family assets at least every three years. During the intervening annual recertifications, DHC will accept a family's declaration of the total net assets equal to or less than $5,000 without taking additional steps to verify the accuracy of the declaration. If the family submits such a declaration (asset total less than $5,000), signed by all household members aged 18 and older, DHC does not need to request supporting documentation to verify the assets, or the amount of income expected to be received from the assets. The family/household declaration of total assets must show each asset and the amount of income expected from the asset.

### e. Determining Actual Anticipated Income from Assets

It may or may not be necessary for DHC 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.

### f. 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.

### g. Jointly Owned Assets

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, DHC 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, DHC will pro-rate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, DHC will pro-rate the asset evenly among all owners.

### h. Assets Disposed Of for Less than Fair Market Value

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 is counted as a current asset, except as noted below.

*Minimum Threshold*

DHC may set a threshold below which assets disposed of for less than fair market value will not be counted.

DHC will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than $1,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual re-examinations, the family may request an interim re-examination to eliminate consideration of the asset(s).

Assets placed by the family in non-revocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

*Separation or Divorce*

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 and not considered disposed of for less than fair market value. 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 examination and each annual re-examination 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.

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

3. Types of Assets

### a. 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 cash value of a checking account, DHC will use the average monthly balance for the last two (2) months, unless authorized by HUD to use different methodology.

In determining the cash value of a savings account, DHC will use the current balance. In determining the anticipated income from an interest-bearing checking or savings account, DHC will multiply the value of the account by the current rate of interest paid on the account. When authorized by HUD, DHC may use actual past income in determining annual asset income.

### b. 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, DHC 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 such as 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), DHC will calculate asset income based on the earnings for the most recent reporting period. When authorized by HUD, DHC may use actual past income in determining annual asset income.

### c. Equity in Real Property or Other Capital Investments

Equity, i.e., 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.

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.
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset.
- Interests in Indian Trust lands.
- Real property and capital assets that are part of an active business or farming operation.
-
- The PHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].
-
- For the purposes of calculating expenses to convert to cash for real property, the PHA will use ten percent of the market value of the home.
-

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

In the case of capital investments owned jointly with others not living in a family's unit, a pro-rated share of the property's cash value will be counted as an asset unless DHC determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

### d. 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. 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. Lump-sum receipts are discussed earlier in this section.

### e. 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, DHC must know whether the money is accessible before retirement.

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

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, except to the extent that it represents funds invested in the account by the family member. 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.

### f. Personal Property

Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

In determining the value of personal property held as an investment, DHC will use the family's estimate of the value. DHC may obtain an appraisal if there is reason to believe that the family's estimated value is off by $50 or more. The family must cooperate with the appraiser but cannot be charged any costs related to the appraisal.
Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal

property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.
Necessary items of personal property are not considered assets.

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

**g. 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. 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.

## 6-1J. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. Some periodic payments are, and some are not included in annual income.

1. Periodic Payments Included in Annual Income

   - Periodic payments from sources such as social security, SSI, 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.

   - Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum.

2. Lump-Sum Payments for the Delayed Start of a Periodic Payment

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

When a delayed-start payment is received and reported during the period in which DHC is processing an annual reexamination, DHC will adjust the tenant rent 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 DHC.

See the chapter on Reexaminations for information about a family's obligation to report lump-sum receipts between annual reexaminations.

3. Treatment of Overpayment Deductions from Social Security Benefits

DHC must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, DHC must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

4. Periodic Payments Excluded from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the resident family, who are unable to live alone). Kinship care payments are considered equivalent to foster care payments and are also excluded from annual income.
- DHC 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.
- 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.
- Amounts received under the Low-Income Home Energy Assistance Program. Amounts received under the Child Care and Development Block Grant Act of 1990.
- Earned Income Tax Credit (EITC) refund payments.
  ***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.

## 6-1K. 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 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.

## 6-1L. WELFARE ASSISTANCE

1. 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.

2. Sanctions Resulting in the Reduction of Welfare Benefits

DHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

3. 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 participatein an economic self-sufficiency program as a condition for such assistance".

4. 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, DHC must include in annual income "imputed" welfare income.

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:

- at the expiration of the lifetime or other time limit on the payment of welfare benefits, or
- 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
- because a family member has not complied with other welfare agency requirements, or
- For inadvertent overpayment.

5. 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.

## 6-1M. PERIODIC AND DETERMINABLE ALLOWANCES

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.

1. Alimony and Child Support

DHC must count alimony or child support amounts awarded by the court or personal arrangements made by parental parties.

DHC will count court-awarded amounts for alimony and child support unless DHC 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. Payments received will be averaged out over the amounts received monthly for a period of no less that (2) months in order to determine an applicable amount the program participant has received in order to determine tenant rent.

DHC may use actual past income in determining annual income from alimony and child support.

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.

2. Regular Contributions or Gifts

DHC must count as income regular monetary and non-monetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income is not counted.

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 DHC. For contributions that may vary from month to month, e.g., utility payments, DHC will include an average amount based upon past history. The family will be required to provide a copy of paid bills upon DHC request.

DHC may use actual past income in determining annual income from regular monetary and non-monetary contributions or gifts from persons not residing with an assisted family.

3. Student Financial Assistance

The Department of Education defines tuition as the amount of money charged to students for instructional services which may be charged per term, per course, or per credit. The Department of Education further defines tuition and fees as the amount of tuition and required fees covering a full academic year most frequently charged to students. These values represent what a typical student would be charged and may not be the same for all students at an institution. If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an entire academic year is used to estimate average tuition. Required fees include all fixed sum charges that are required of a large proportion of all students. The student who does not pay the charges is an exception. Examples of required fees include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program). Income exclusion includes any financial assistance received for mandatory fees and charges (in addition to tuition (examples, student service fees, student association fees, student activities fees, laboratory fees) Expenses related to attending an institution of higher education must **not** be included as tuition. Examples of these expenses include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed sum charges.

In implementing the amended definition of tuition, for section 8 programs only, DHC must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

## 6-1 N. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME

Other exclusions that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses
- Subject to the additional income inclusion for the HCV program on annual income for students of higher education, the full amount of student financial assistance paid directly to the student or to the educational institution, except that the portion of any athletic scholarship assistance available for housing costs must be included in annual income.
- Regular financial support from parents or guardians to students for food, clothing personal items, and entertainment is not considered tuition and is included in annual income.
- 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. 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).

- 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.
- Adoption assistance payments in excess of $480 per adopted child.
- Refunds or rebates on property taxes paid on the dwelling unit.
- 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.
- Amounts specifically excluded by any other federal statute. HUD publishes an updated list of these exclusions periodically. The list includes:
    - The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.
    - Payments to Volunteers under the Domestic Volunteer Services Act of 1973.
    - Payments received under the Alaska Native Claims Settlement Act.
    - Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes.
    - Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program.
    - Payments received under programs funded in whole or in part under the Job Training Partnership Act. 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.
    - Income derived from the disposition of funds to the Grand River Band of Ottawa Indians.
    - 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.
    - Subject to the annual income inclusions for the HCV Program, the 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. Payments received from programs funded under Title V of the Older Americans Act of 1985.
    - 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.)

- Payments received under the Maine Indian Claims Settlement Act of 1980.
- The value of any childcare provided or arranged, or any amount received as payment for such care or reimbursement for costs incurred for such care under the Child Care and Development Block Grant Act of 1990.
- Earned income tax credit (EITC) refund payments received on or after January 1, 1991.
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation.
- Allowances, earnings, and payments to AmeriCorps participantsunder the National and Community Service Act of 1990.
- 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. 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.
- Allowances, earnings, and payments to individuals participatingin programs under the Workforce Investment Act of 1998.
- EID income exclusions as allowed by HUD regulations.
- Medicare incentive payments.

## PART II: ADJUSTED INCOME

## 6-2 A. INTRODUCTION

1. Overview

HUD regulations require DHC 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.

2. Mandatory Deductions

In determining adjusted income, DHC will deduct the following amounts from annual income:

| |
|---|
| 5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:<br>(1) $480 for each dependent.<br>(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:<br>(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) Reasonable and verified childcare expenses necessary to enable a memberof 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.

3. Anticipating Expenses

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

If a family has an accumulated debt for medical or disability assistance expenses, DHC will include as an eligible expense the portion of the expense 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. DHC may require the family to provide documentation of payments made in the preceding year.

## 6-2 B. DEPENDENT DEDUCTION

A deduction of $480 is taken for each dependent. *Dependent* is defined as any family member other than the head of household, 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.

## 6-2C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of $400 is taken for any elderly or disabled family. An *elderly family* is a family whose head of household, spouse, co-head, or sole member is 62 or older, and a *disabled family* is a family whose head of household, spouse, co-head, or sole member is a disabled person.

## 6-2D. MEDICAL EXPENSES DEDUCTION

Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) of annual income.

The medical expense deduction is permitted only for families in which the head of household, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

1. Definition of Medical Expenses

*Medical expenses* 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.

2. Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies only to families in which the head of household, spouse, or co-head is 62 or older, a disabled family, or when a family also includes a person with disabilities that qualifies for a disability expense.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DHC will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## 6-2E. DISABILITY ASSISTANCE EXPENSES DEDUCTION

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 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 (3%) of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

1. 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.

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 or older and who are able to work” because of the expense. The earned income used for this purpose is the amount verified after 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, DHC 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 determines the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ income.

2. Eligible Disability Expenses

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

3. 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.

4. 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, DHC will pro-rate 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 pro-rated. 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.

5. Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family. 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.

6. 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.

DHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DHC will require the family to provide information from three organizations that provide services and support to persons with disabilities. A family may present, and DHC will consider, the family's justification for costs that exceed typical costs in the area.

7. Families That Qualify for Both Medical and Disability Assistance Expenses

This policy applies *only to families in which the head of household, spouse, or co-head is 62 or older, a disabled family, or when a family also includes a person with disabilities that qualifies for a disability expense*.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DHC will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## 6-2 F. CHILD CARE EXPENSE DEDUCTION

*Childcare expenses* are "amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. To establish typical costs, DHC will require the family to provide

information from three organizations that provide services and support the reasonable costs of childcare necessary to permit employment. The amount deducted shall not exceed the amount of employment income that is included in annual income."

1. Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

2. Qualifying for the Deduction

**a. 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 childcare deduction, i.e., seeking work, pursuing an education, or being gainfully employed.

In evaluating the family's request, DHC 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.

**b. Seeking Work**

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination or interim reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DHC.

To qualify for childcare deductions under the provision of actively seeking employment, the family member may be a participant in an official job search program or may simply demonstrate independent job search activities. In either case, in order to verify the time spent in seeking employment, DHC will require the family to maintain a log that reflects all activity seeking employment. DHC will use the information on the log to verify the contacts and the eligibility of childcare expenses. Since job search activities may be irregular and not easily anticipated, DHC may attempt a limited inclusion at the annual certification and conduct an interim reexamination after some actual expenditures have been incurred. In many instances, job search periods will be of limited duration, but in some cases the job search period may be extended, especially if the type of employment sought is limited in availability, employment opportunities of any kind are scarce, or the job skills needed are unusual.

### c. Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school, academic or vocational, or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities, must be commensurate with the childcare claimed.

### d. Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity, full- or part-time, for which a family member is compensated. Childcare will be capped by the amount of earned income of the individual that is freed to work. In the case of EID, the cap for the amount of earned income will be the amount that is included in annual income after the EID is applied for the individual that is freed to work.

3. Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, the cap on the amount that may be deducted for childcare must be necessary and reasonable as determined by DHC. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income".

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

DHC must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DHC will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

4. Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. DHC will not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

### a. 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, childcare expenses paid to a family member who lives in the family's unit are not eligible. However, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DHC will pro-rate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be pro-rated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### b. Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish typical costs, DHC will require the family to provide information from three organizations that provide services and support the reasonable costs of childcare. Families must present, and DHC will consider, justification for costs that exceed typical costs in the area.

## PART III: CALCULATING FAMILY SHARE AND DHC SUBSIDY

## 6-3 A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS

1. TTP Formula

The total tenant payment (TTP) for an assisted family 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 DHC.

DHC may 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.

2. Welfare Rent

Welfare rent does not apply in Michigan.

3. Minimum Rent

DHC's minimum rent is $50.00.

4. Family Share

If a family chooses a unit with a gross rent, i.e., rent to owner plus an allowance for tenant-paid utilities, that exceeds DHC's applicable payment standard (1) the family will pay more than the TTP, and (2) at initial occupancy DHC 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.

5. DHC Subsidy

DHC 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.

6. Utility Reimbursement

When DHC's subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement.

DHC will pay any utility reimbursement to the family.

7. Enhanced Voucher

Section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) authorizes families to be offered enhanced vouchers upon the occurrence of one of four eligibility events impacting projects in HUD's Office of Multifamily Housing's portfolio:

1. The prepayment of a mortgage that results in families residing in the project eligible under section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA)
2. The voluntary termination of the insurance contract that results in families residing in the project being eligible under 223(f) of LIHPRHA
3. The termination of a project-based section 8 rental assistance contract that results in assisted families residing in the project being eligible under section 515© or section 524(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA)
4. A Transaction under which a project that receives or has received assistance under the Flexible Study program is preserved as affordable housing, which results in families being eligible under section 210(p) of the Housing and Community Development Act of 1978 (HCDA).

Enhanced voucher assistance under Section 8(t) differs from regular tenant protection vouchers in two major respects if the family elects to remain at the project. First, a higher "enhanced" payment standard is used to determine the amount of housing assistance payment when the gross rent of the unit exceeds the normally applicable HAP payment standard. Second, the family must continue to contribute towards rent an amount that is at least the amount the family was paying for rent at the time of the eligibility event. This minimum rent contribution is known as the enhanced voucher minimum rent. The enhanced voucher minimum rent is discussed in detail in HUD Notice PIH 2001-41, Part II.C.3.

If the enhanced voucher family's rent suffers a significant decrease in income (a decrease of at least 15 percent from the family income on the date of the eligibility event), Section 8(t) further provides that the enhanced voucher minimum rent changes from the dollar amount the family was paying for rent to the percentage of income the family was paying for rent at the time of the eligibility event. Specifically, for families who were previously unassisted on the eligibility event, the family's revised enhanced voucher minimum rent is the greater of (A) the percentage of the monthly adjusted income the family paid for gross rent on the effective date of the eligibility event, or (B) 30 percent of the family's current adjusted monthly income. For families who were previously assisted under a project-based or tenant-based contract on the eligibility event, the family's revised enhanced voucher minimum rent is the greater of (A) the percentage of adjusted monthly income the family Total Tenant Payment (TTP) or the voucher family share an effective date of the eligibility event, or (B) 30 percent of the family's current adjusted monthly income.

Under HUD Notice PIH 2001-41, if the enhanced voucher minimum rent changed because of the significant decrease in income, it remained that percentage of adjusted monthly income for as long as the family continued to receive enhanced voucher assistance. The enhanced voucher minimum rent from that point was that specific percentage (e.g., 39 percent) applied to the family's current adjusted monthly income, regardless of whether the family's income subsequently increased or decreased.

After the enhanced voucher minimum rent for the family is changed from the dollar amount to the percentage of income calculation, the enhanced voucher minimum rent will normally continue to remain that specific percentage of adjusted monthly income so long as the family receives enhanced voucher assistance.

If the family's income subsequently increases to an amount where the dollar value of the family's enhanced voucher minimum rent established by the percentage of income calculation is more than the original enhanced voucher minimum rent reverts to the original enhanced voucher minimum rent. The original enhanced voucher minimum rent is the maximum enhanced voucher minimum rent that is applied to the family.

EXAMPLE:

Assume an enhanced voucher family was paying $590 for rent at the eligibility event, which was 39 percent of the family's adjusted monthly income. The family's enhanced voucher minimum rent is $590. The family share of the rent is the higher of the family's TTP or $590:

At Commencement of Enhanced Voucher Assistance:

| | |
|---|---|
| Family Adjusted Income | $1,500 |
| Family Payment for Gross Rent at Eligibility Event | $590 |
| % of Adjusted Monthly Income Paid for Rent at Eligibility Event | 39% |
| TTP (Assume 30% of Adjusted Monthly Income is TTP for this Family) | $450 |
| Enhanced Voucher Minimum Rent | $590 |
| Family Share (Higher of TTP or Enhanced Voucher Minimum Rent) | $590 |

After the family has received enhanced voucher assistance for a period of time, there is a subsequent significant decline in the family's income. DHC will recalculate the family's enhanced voucher minimum rent by taking the percentage of AMI the family was paying for rent at the eligibility event, which was 39 percent, and applying it to the family's current AMI. The family share for the enhanced voucher family is now the higher of the family's TTP or 39 percent of the family's current AMI. See chart below.

Significant Decrease in Family Income

| | |
|---|---|
| Family Adjusted Monthly Income | $1,000 |
| Family Payment for Gross Rent at Eligibility Event | $590 |
| % of Adjusted Monthly Income Paid for Rent at Eligibility Event | 39% |
| TTP (Assume 30% of AMI is TTP for this family) | $300 |
| Enhanced Voucher Minimum Rent based on % of AMI Paid for Gross Rent at Eligibility Event or 30%, whichever is higher | $390 |
| Family Share (Higher of TTP of Enhanced Voucher Minimum Rent) | $390 |

At a later point in time from the decrease in income, the family now reports an increase in income. To calculate the enhanced voucher minimum rent, DHC will take the lower of 39 percent of the family's AMI (which includes the increase in income) or $590 (the family's original enhanced voucher minimum rent). In this example assume that 39 percent of the family's current AMI equals $663, which is greater than the family's original enhanced voucher minimum rent. Accordingly, the family's enhanced voucher minimum rent reverts to $590, and the family share is the greater of the family TTP or $590. See chart below.

Subsequent Increase in Family Income

| | |
|---|---|
| Family Adjusted Monthly Income | $1,700 |
| Family Payment for Gross Rent at Eligibility Event | $590 |
| % of Adjusted Monthly Income Paid for Rent at Eligibility Event | 39% |
| TTP (Assume 30% of Adjusted Monthly Income is TTP for this family) | $510 |
| Enhanced Voucher Minimum Rent based on % of AMI Paid for Gross Rent at Eligibility Event or 30%, whichever is higher | $663 |
| Original Enhanced Voucher Minimum Rent | $590 |
| Enhanced Voucher Minimum Rent (Lower of Original Enhanced Voucher Minimum Rent or Enhanced Voucher Minimum Rent Based on % of Adjusted Monthly Income Paid for Gross Rent at Eligibility Event or 30%) | $590 |
| Family Share (Higher of TTP or Enhanced Voucher Minimum Rent) | $590 |

**Application of the change in calculation**. DHC will apply this change in the enhanced voucher minimum rent to the family's housing assistance payment (HAP) and family

share calculation on the earlier of either the effective date of (1) the family's first regular reexamination following the issuance date of this notice, or (2) an interim reexamination as the result of increase in family income following the issuance date of this notice. The change to the family's HAP and family share is applied prospectively from that point on, not retroactively.

If the family's TTP is higher than the family's enhanced voucher minimum rent as presently calculated, this change has no impact on the subsidy calculation. However, if the family is or will be paying the enhanced voucher minimum rent as their family share, DHC must compare the current enhanced voucher minimum rent to the family's original enhanced voucher minimum rent to determine if an adjustment to the enhanced voucher minimum rent (and the HAP and the family share calculation) is required.

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## 6-3B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT

1. Overview

If DHC has established a minimum rent, DHC may 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 DHC determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

2. Financial Hardship Defined

Financial hardship includes the following situations:

- 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 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.
    - 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:
        - implementation of assistance, if approved, or
        - 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.
- 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.

- Family income has decreased because of changed family circumstances, including the loss of employment.
- A death has occurred in the family.
  - In order to qualify under this provision, a family must describe and verify how the death has created a financial hardship, e.g., because of burial-related expenses or the loss of the family member's income.
- The family has experienced other circumstances determined by DHC.

3. Implementation of Hardship Exemption

**a. Determination of Hardship**

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

DHC will then determine whether the financial hardship exists and whether the hardship is temporary or long-term.

DHC defines temporary hardship as a hardship expected to last 90 days or less. Long term hardship is defined as a hardship expected to last more than 90 days.
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.

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.

DHC will make the determination of hardship within 30 calendar days.

**b. No Financial Hardship**

If DHC determines there is no financial hardship, DHC will reinstate the minimum rent and require the family to repay the amounts suspended.

DHC will require the family to repay the suspended amount within 30 calendar days of DHC's notice that a hardship exemption has not been granted.
For procedures pertaining to grievance hearing requests based upon DHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

**c. Temporary Hardship**

If DHC determines that a qualifying financial hardship is temporary, DHC will 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 DHC the amounts suspended DHC also may determine that circumstances have changed, and the hardship is now a long-term hardship.

DHC will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan only after all attempts have been made to collect the amount due during the 30-day period.

**d. Long-Term Hardship**

If DHC determines that the financial hardship is long-term, DHC will 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:

- At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- 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.
- 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.

## 6-3C. APPLYING PAYMENT STANDARDS

1. Overview

DHC's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of DHC's payment standards. The establishment and revision of DHC's payment standard schedule are covered in Chapter 16.

*Payment standard* is defined as "the maximum monthly assistance payment for a family assisted in the voucher program before deducting the total tenant payment by the family)".

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 DHC's subsidy standards, or (2) the payment standard for the size of the dwelling unit rented by the family.

If DHC 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, DHC will use the appropriate payment standard for the exception area.

DHC will 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, DHC will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

2. Changes in Payment Standards

**a. 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. DHC will determine the payment standard for the family as follows:

- Step 1: At the first regular reexamination following the decrease in the payment standard, DHC 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: DHC 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 DHC at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. DHC 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 DHC 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.

**b. 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.

*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, DHC may establish a higher payment standard for the family within the basic range of 90-110 percent. In extraordinary circumstances, DHC may also request a HUD approval for a payment standard within 110%-120% as a reasonable accommodation. Such request shall be well documented and must have HUD approval before implementation.

## 6-3D. APPLYING UTILITY ALLOWANCES

1. Overview

A DHC-established utility allowance schedule is used in determining family share and DHC subsidy. DHC will use the appropriate utility allowance for the lesser of the size of the dwelling unit actually leased by the family or the voucher sized issued, as determined by DHC's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

2. Reasonable Accommodation

DHC may approve a utility allowance amount higher than shown on DHC's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability.
The family must request the higher allowance and provide DHC with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required.
The approval may be for an individual utility source and usage

The approval could be to use the appropriate utility allowance for the size of the dwelling unit actually leased or to be leased by the family regardless of the voucher size.

See Chapter 2 for policies related to reasonable accommodations.

3. Utility Allowance Revisions

At reexamination, DHC will use DHC's utility allowance schedule in effect at that time. Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective at the time the annual re-examination is completed.

Utility Allowance Payments

Within system capacity, DHC will make utility reimbursement payments quarterly rather than monthly if the total quarterly reimbursements payment due to the family is equal to or less than $45 per quarter. DHC will make the payments prospectively. If a recertification is delinquent due to the participant's actions, funds will be reconciled and collected as required. If an interim is completed which affects the prospective payment, funds will be reconciled and collected as required. If a participant leaves the program after receiving a utility payment, DHC will work to collect while the client remains in the unit. If a client requests a Lease End Date to the current contract unit, DHC will reconcile payments based on occupancy. All debts owner to DHC will be recorded in PIC

## 6-3E. PRO-RATED ASSISTANCE FOR MIXED FAMILIES

Assistance cannot be given 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. DHC must pro-rate the assistance provided to a mixed family. DHC will first determine assistance as if all family members were eligible and then pro-rate the assistance based upon the percentage of family members that actually are eligible. For example, if DHC subsidy for a family is calculated at $500 and two of four family members are ineligible, DHC's subsidy would be reduced to $250

# CHAPTER 7

# VERIFICATION

## [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.23024 CFR 5.216, 24 CFR 5.218, AND 24 CFR 5.233]

## INTRODUCTION

DHC will verify all information that is used to establish the family's eligibility and level of assistance and is able 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.

**Part I:** Describes the general verification process.

**Part II:** Describes verifying family information of legal identity.

**Part III:** Describes verifying income and assets.

**Part IV:** Describes verifying mandatory deductions.

## PART I: GENERAL VERIFICATION REQUIREMENTS

## 7-1A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230]

The family must supply any information that DHC or HUD determines is necessary to the administration of the program and must consent to DHC verification of that information [24 CFR 982.551].

1. 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. Adult family members must sign other consent forms, as needed, to collect information relevant to the family's eligibility and level of assistance.

2. Penalties for Failing to Consent [24 CFR 5.232]

If any adult family member fails to sign any required consent form, DHC will deny admission to applicants and terminate the assistance of participants. Applicants may request an informal review if denied for failure to sign a required consent form and participants may request an informal hearing if terminated for failure to sign any required consent form.

## 7-1B. VERIFICATION REQUIREMENTS

1. Methods of Verification and Time Limits

DHC will verify information through these six (6) methods of verification, unless HUD provides other guidance on verification, acceptable to HUD in the following order:

1. Upfront Income Verification using HUD's Enterprise Income Verification (EIV) System and the Income Validation Tool (IVT) (Mandatory use)
2. Upfront Income Verification using non-HUD System (Optional)
3. Written Third-Party Verification (Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV reported employment and income information and is unable to provide acceptable documentation to support dispute)
4. Written Third-Party Verification Form (Mandatory if written third party verification documents are not available or rejected by DHC; and when the applicant or tenant is unable to provide acceptable documentation)
5. Oral Third-Party Verification (Mandatory if written third party verification is not available)
6. Certification/Self Declaration

DHC will allow 10 business days for return of third-party verifications and 5 business days to obtain other types of verifications before going to the next method.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance. For participants the verifications must be dated within 120 days of the transaction effective date.

2. Upfront Income Verification (UIV): 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 number of individuals. DHC may use other non-HUD UIV tools, such as The Work Number (an automated verification system), and state government databases, to validate tenant-reported income.

3. Written Third-Party Verification

Written third-party verification is an original or authentic document generated by a third-party source dated either within the 60-day period preceding the reexamination or DHC request date. Such documentation may be in the possession of the tenant (or applicant)

and is commonly referred to as tenant-provided documents. It is HUD's position that such tenant-provided documents are written third-party verification since these documents originated from a third-party source. DHC may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to, pay stubs, payroll summary report, employer notice/letter of hire/termination, SSA benefit verification letter, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Current acceptable tenant-provided documents must be used for income and rent determinations.

Note: Documents older than 60 days (from the DHC interview/determination or request date) is acceptable for confirming effective dates of income.

4. When Third-Party Information is Late

When third-party verification has been requested and the timeframes for submission have been exceeded, DHC will use the information from documents provided by client on a provisional basis. If the DHC 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 re-examination, DHC will conduct an interim re-examination to adjust the figures used for the reexamination, regardless of DHC's interim re-examination policy.

5. Written Third Party Verification Form:

A written third-party verification form, also, known as traditional third-party verification, is a standardized form to collect information from a third-party source. The form is to be completed by the third-party by hand (in writing or typeset). DHC will send the form directly to the third-party source by mail, fax, or e-mail. All such documents, excluding government checks, will be photocopied, and retained in the applicant file. In cases where documents are viewed but cannot be photocopied, staff viewing the documents(s) will complete a DHC-approved form which documents what was viewed.

DHC will accept the following documents from the family, provided there is no evidence of tampering and that the document contains sufficient information:

- Printed wage stubs.
- Computer printouts from the employer.
- Signed letter (provided that the information is confirmed by phone); or
- Other documents noted in this chapter as acceptable verification.

DHC will accept faxed or emailed documents. DHC will accept photocopies for its file'sprovided originals are viewed.

If third-party verification is received after documents have been accepted as provisional verification and there is a discrepancy, DHC will utilize the third-party verification. DHC will not delay the processing of an application beyond 30 days because a third-party information provider does not return the verification in a timely manner.

6. When Third-Party Verification is Not Required

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

7. Expenses Related to Third-Party Verification

DHC 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, DHC 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.

8. When DHC is Required to Obtain Written Third-Party Verification

DHC must request written third-party verification under the following circumstances:

- When the participant disputes the EIV information and is unable to provide acceptable documentation to support his/her dispute (24 CFR §5.236(b)).
- When DHC requires additional information that is not available in EIV and/or the participant is unable to provide DHC with current acceptable participant-provided documentation. Examples of additional information, include but are not limited to:
    - Effective dates of income, i.e., employment, unemployment compensation, or social security benefits
    - For new employment: pay rate, number of hours worked per week, pay frequency, etc.
    - Confirmation of change in circumstances, i.e., reduced hours, reduced rate of pay, temporary leave of absence, etc.

9. Oral Third-Party Verification

Oral third-party verification is independent verification of information by contacting the individual income/expense source(s), as identified through the UIV technique, or identified by the family, via telephone or in-person visit. DHC staff will document in the tenant file, the date and time of the telephone call (or visit to the third-party), the name of the person contacted and telephone number, along with the confirmed information. Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a DHC-approved oral verification form. On the form, DHC staff must note with whom

they spoke, the date and time of the conversation, and the facts provided. DHC staff will compare the information provided to any documents provided by the family. If verification is provided by telephone, DHC staff must originate the call and document the transaction on a DHC-approved oral verification form.

10. Tenant Declaration

A tenant declaration is when the participant submits an affidavit or notarized statement of reported income and/or expenses to DHC. This verification method will be used as a last resort when DHC has not been successful in obtaining information via all other verification techniques. When DHC relies on a tenant declaration, the participant file must be documented to confirm why third- party verification was not available. When verification cannot be obtained within 10 business days by third-party verification or review of documents, families will be required to submit a self-certification. DHC 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 DHC 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 DHC representative or a notary public. DHC considers a signed copy of the Personal Declaration (DHC-879) as a self- certification.

11. Release of Information

The family will be required to sign specific authorization forms when information is needed that is not covered by the Authorization for Release of Information (HUD-9886) form. Each adult family member will be required to review and sign appropriate consent forms.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information requested by DHC or HUD.

12. Items Requiring Verification

- All income not specifically excluded by the regulations.
- Zero-income status of household.
- Full-time student status including high school students who are 18 or over.
- Current assets, including assets disposed of for less than fair market value in the preceding two years.
- Childcare expense when childcare allows an adult family member to be employed, to seek employment, or to further his/her education.
- Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

- Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus that allow an adult family member to be employed.
- U.S. citizenship or eligible immigrant status.
- Social Security numbers for all family members six years of age or older who have been issued a number.
- Qualification of preferences.
- Familial/marital status when needed for head of household or spouse definition.
- Disability status for determination of preferences, allowances, or deductions.
- Pregnancy of a woman who applies to live alone as a family.
- Documentation for need of live-in aide.
- Insurance/ownership/tax form ID of property owner.
- Any other information required to ensure program compliance.

## 7-1C. USE OF THE EIV SYSTEM

EIV reports must be generated as part of the regular re-examination process. DHC will inform all applicants and participants of its use of EIV during the admission and re-examination process. DHC must restrict access to and safeguard EIV data in accordance with HUD requirements.

EIV reports must be used in interim re-examinations and in other circumstances deemed appropriate by DHC when it is necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV reports will be retained in participant files with the applicable annual or interim re-examination documents.

DHC must use the EIV upfront income verification system, including the use of the HUD established computer-based tool for obtaining information related to employment, wages, social security benefits, unemployment benefits, Supplemental Security Income, benefit history and tenant income discrepancy reports from the Social Security Administration. DHC must document the participant's file in accordance with HUD requirements to demonstrate compliance with mandated use of EIV as a third-party source to verify tenant employment and income information (24 CFR §5.233(a)(2)(i)). If the EIV report reveals an income source that was not reported by the participant or a substantial difference in the reported income information, DHC must take appropriate actions in accordance with HUD requirements and DHC policy to address the

discrepancy. A substantial difference is defined by HUD as an amount equal to or greater than $2,400, annually.

When the EIV computer matching results in a discrepancy with information in DHC's records of greater than $200 per month for the family, DHC will follow up with the family and verification sources to resolve the discrepancy.

When the family furnishes DHC with a letter or notice from HUD concerning the amount or verification of income, DHC will verify the accuracy of income information contained in the notice and will, as appropriate, change the amount of the TTP, family rent to owners and housing assistance payment or terminate assistance.

When DHC determines that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

1. Exceeds Threshold Reports (ETRs)

The ETR is a tool for identifying families who may have concealed or underreported income. Data in the ETR represents income for past reporting periods and may be between 6 months and 30 months old at the time ETRs are generated.

DHC will generate and review ETRs on a semi-annual basis. The ETR threshold percentage will be adjusted as necessary based on the findings in the ETRs.
In reviewing ETRs, DHC will begin with the largest discrepancies. When DHC determines that a participant appearing on the ETR has not concealed or underreported income, the participant's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, participants appearing on this list will be eliminated from ETR processing until a subsequent interim or annual re-examination has been completed.

When it appears that a family may have concealed or underreported income, DHC will request third-party written verification of the income in question. When DHC determines through ETR review and third-party verification that a family has concealed or underreported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

2. EIV Identity Verification

The EIV system verifies tenant identities against Social Security Administration (SSA) records. These records are compared to PIC data for a match on Social Security number, name, and date of birth. When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

DHC will identify participants whose identity verification has failed as part of the annual re-examination process. DHC will attempt to resolve PIC/SSA discrepancies by reviewing file documents. When DHC determines that discrepancies exist due to DHC

errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

3. Effective Use of the EIV System's Deceased Tenants Report to Reduce Subsidy Payment & Administrative Errors

DHC shall use the EIV system to facilitate the reduction of the number of deceased single member households continuing to receive ineligible rental assistance and to facilitate the updating and timely submission to HUD of the form HUD-50058 (*Family Report)* to reflect accurate household composition.

DHC shall generate the EIV Deceased Tenants Report at least once a month. DHC will generate the report before disbursing the upcoming monthly HAP payments to owners.

4. Retroactive Repayment of HAP by Owners

If an owner receives HAP for any month in which the owner is ineligible to receive HAP because of a deceased participant, DHC will immediately notify the owner in writing of the ineligible HAP and require the owner to repay the overpayment to DHC on the next pay cycle. DHC may deduct the amount due to DHC from any amounts due to the owner under any other HAP Contract, suspend HAP under any other HAP Contract, or terminate other HAP Contracts. If there is no other HAP Contract with the owner, DHC may seek and obtain judicial relief.

In instances where a deceased single member household has been deceased for a period greater than 6 months and the owner received HAP, DHC may determine that the owner has breached the HAP Contract. As such, DHC may exercise any of its rights and remedies under the HAP Contract, or any other available rights and remedies for such breach including reporting the overpayment to the HUD Office of Inspector General.

## 7-1D. PENALTIES FOR NON-COMPLIANCE WITH USE OF EIV'S DECEASED TENANTS REPORT

If DHC overpaid HAP on behalf of a single member deceased household and fails to collect the overpayment from the owner, DHC is required to reimburse 100 percent of the overpayment to the HAP Equity account from the Administrative Fee Equity account or other non-federal funds. In addition, if such errors impacted any funding baseline determinations, funding for the affected renewal periods may be adjusted.

DHC cannot reimburse prior year HAP costs with current year HAP funding because the funding carries forward but does not carry back.

HUD will monitor DHC's Deceased Tenants Report on a quarterly basis. If at any time the report identifies deceased single member households who have been deceased for

a period exceeding six (6) months, and HUD determines that DHC has not taken the necessary corrective action, DHC may be subject to a withholding of its monthly administrative fee each month that the number of single deceased household members is greater than zero.

## 7-1 E. FILE DOCUMENTATION

DHC will 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 DHC has followed all of the verification policies set forth in this Admin Plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### PART II: VERIFYING FAMILY INFORMATION REGARDING LEGAL IDENTITY

A family must furnish verification of legal identity for each household member. For members 18 years or older current picture identification is required. The chart below identifies acceptable documentation of identity.

| Verification of Legal Identity for Adults | Verification of Legal Identity for Children |
|---|---|
| Certificate of birth, naturalization papers<br>NUMI - the Numident is an electronic record of the information contained on an individual's original application for anSSN and subsequent applications for replacement cards.<br>Church issued baptismal certificate<br>Current, valid driver's license, or Department of Motor Vehicles identification card<br>U.S. military discharge (DD 214)<br>U.S. passport<br>State Issued ID (for Non-drivers) | Certificate of birth<br>Adoption papers<br>Custody agreement<br>School records |

Legal identity will be verified upon admission and on an annual basis.

If a non-traditional household is unable to provide documentation of court awarded custody, the following documents will be considered:

- Court awarded notice (not just a hearing date)
- Medicare/Medicaid

- School records – providing address and caregiver (last year, school address, etc.)
- Health and Human Services Department case number and case manager name.
- Health and Human Services Identification Legal Affidavit of Parentage

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

## 7-2 A. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 24 CFR 5.218]

1. Social Security Number (SSN) Disclosure

In accordance with 24 CFR §5.216, all members of the household of applicants and participants (including each member of the household and including live-in aides, foster children, and foster adults) are required to disclose his/her assigned SSN, with the exception of the following individuals:

- Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States) and have not been assigned an SSN. These individuals in most instances would not be eligible for an SSN.
    a. A family that consists of a single household member (including a pregnant individual) who does not have eligible U.S. citizenship or eligible immigration status is not eligible for housing assistance and cannot be housed.
    b. A family that consists of two or more household members and at least one household member that has eligible U.S. citizenship or eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR §5.520. DHC may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.

        Note: Financial assistance may only be provided to individuals with eligible immigration status in accordance with 42 USC §1436a, which is generally evidenced by the individual providing his/her Green Card (Form I-551 – U.S. Permanent Residence Card) or other documentation approved by the Department of Homeland Security for noncitizens with refugee or asylee status.

- Existing program participants as of January 31, 2010, who are 62 years of age or older (born on or before January 31, 1948) and had not previously disclosed a valid SSN. This exemption continues even if the individual moves to a new assisted unit.

Disclosure of SSNs is considered information subject to the Federal Privacy Act (5 USC §552a, as amended) In accordance with 24 CFR §5.212, the collection, maintenance,

use, and dissemination of SSN's, any information derived from SSN's and income information must be conducted, to the extent applicable, in compliance with that Act and all other provisions of Federal, State, and local laws.

An individual who previously declared to have eligible immigration or eligible citizenship status may not change his/her declaration to no longer contend to have eligible immigration status to avoid compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance of these requirements.

Note: There are no provisions under HUD regulations which prohibit a mixed family from executing a lease or other legally binding contract. A mixed family includes individuals that have both eligible and ineligible family member so long as at least one household member is eligible.

2. Acceptable SSN Documentation

DHC must request the applicant and participant (including each member of the household), who are not exempt under Section 1. Above to provide documentation of each an SSN. Acceptable evidence of the SSN consists of:

- An original SSN card issued by SSA.
- An original SSA-issued document, which contains the name and SSN of the individual; or
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

It should be noted that most (if not all) individuals who are lawfully present in the U.S. have been assigned an SSN. Many existing laws require the disclosure of the SSN for various purposes.

The SSA issues three types of social security cards depending on an individual's citizen or noncitizen status and whether or not a noncitizen is authorized by the Department of Homeland Security (DHS) to work in the United States. They include:

a. A card that shows the individual's name and SSN only. This is the card most people have and reflects the fact that the holder can work in the U.S. without restriction. SSA issues this card to:
   i. U.S. citizens; or
   ii. Noncitizens lawfully admitted to the United States for permanent residence and noncitizens with DHS permission to work permanently in the United States (i.e., refugees and asylees)

b. Another card bears, in addition to the individual's name and SSN, the legend: **"NOT VALID FOR EMPLOYMENT."** SSA issues this card to lawful noncitizens who do not have DHS permission to work and are

required by law to provide an SSN to obtain general assistance benefits that they already have qualified for.

c. A third card bears, in addition to the individual's name and SSN, the legend **"VALID FOR WORK ONLY WITH DHS AUTHORIZATION."** SSA issues this card to people with DHS permission to work temporarily in the United States. SSA verifies all noncitizens' documents with DHS before anSSN card is issued to a noncitizen.

3. Rejection of Documentation

DHC may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

- The document is not an original document; or
- The original document has been altered, mutilated, or not legible; or
- The document appears to be a forged document, i.e., does not appear to be authentic.

DHC shall explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to DHC within 10 business days.

4. Addition of a New Household Member

When a participant requests to add a new household member, who is at least 6 years of age or is under the age of six and has an SSA-assigned SSN, to the family, the participant must disclose the SSA-assigned SSN and provide DHC with the documentation required within this chapter at the time of the request or at the time of processing an interim or annual re-examination of the family. If the family is unable to provide the required documentation of the SSN, DHC will not add the new household member until the family provides such documentation. If DHC determines, the requested member has been residing in the household without DHC authorization, DHC will terminate the family's assistance for having an unauthorized household member.

When a participant requests to add a new household member who is under the age of 6 who has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days for the child to be added to the household. During the period DHC is awaiting documentation of the SSN, the child will be counted as part of the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, DHC is required to grant the family an additional 90-day period to comply with the SSN disclosure and documentation requirement, only if DHC determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include

but are not limited to delayed processing of SSN application by SSA, natural disaster, fire, death in family, etc.

The child is to be included as part of the assisted household and is entitled to all benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. DHC is required to generate an ALT ID as referenced in the "individuals without an assigned SSN" section 7.2A. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, DHC must terminate the entire family's tenancy or assistance, or both.

5. Penalties for Failure to Disclose and/or Provide Documentation of the SSN. In accordance with 24 CFR §5.218, the following penalties apply for noncompliance with the SSN disclosure and documentation requirements:

    a. Applicants: DHC must deny the eligibility of an assistance applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose an SSN and/or provide documentation ofsuch SSN. However, if the family is otherwise eligible to participate in the program, the family may maintain his/her position on the waiting list for the time determined by DHC. DHC should prescribe in its policies, the maximum time (60 Days) the family may remain on the waiting list, pending disclosure of requested information. If all household members have not disclosed their SSN at the time a unit becomes available, DHC must offer the available unit to the next eligible applicant family on the waiting list.

        Applicants to the Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program for Homeless Individuals, under 24 CFR §882, may be admitted to the program without proving the requested documentation (prior to or at admission), however, the individual must provide DHC with such documentation within 90 calendar days from the date of admission. DHC may grant the individual one 90-day extension, if in its discretion, DHC determines that the individual's failure to comply with the SSN documentation requirement was due to unforeseen circumstances and outside the control of the family. If upon the expiration of the provided time period, the individual fails to comply with the SSN disclosure and documentation requirements, DHC must terminate the individual's tenancy or assistance, or both.

    b. Participants: DHC must terminate the assistance of HCV program participants (the entire household) if s/he (including each member of the household required to disclose his/her SSN) does not disclose his/her SSN and provide the required documentation. However, if the family is otherwise eligible for continued assistance or tenancy in the program, DHC, at its discretion, may defer the family's termination and

provide the family an opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date DHC determined the family noncompliant with the SSN disclosure and documentation requirements, only if DHC determines:

i. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and

ii. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.

If the family is unable to comply with the requirement by the specified deadline, DHC must terminate the entire family's tenancy or assistance, or both. DHC must deny admission or terminate the family's tenancy or assistance, or both, if the family submits falsified SSN documentation.

6. DHC Penalties for Noncompliance: DHC is required to ensure compliance with SSN disclosure, documentation, and verification requirements outlined in this chapter and HUD regulations, including the enforcement of penalties for a family's failure to comply with the HUD requirements. DHC may be subject to sanctions and/or the assessment of disallowed costs associated with any resulting incorrect subsidy or tenant rent calculation or both as a result of DHC's noncompliance and/or enforcement of the SSN disclosure, documentation, and verification requirements outlined in this notice and the applicable HUD regulations.

7. Verification of the SSN. DHC shall verify each disclosed SSN by:

   a. Obtaining the documentation listed under Section 2, Acceptable SSN Documentation, above from applicants and participants (including each member of the household)

   b. Making a copy of the original documentation submitted, returning it to the individual, and retaining the copy in the file folder; and

   c. Recording the SSN on line 3n of the form HUD-50058 and transmitting the form HUD-50058 to HUD within a timely manner. DHC is required to transmit the form HUD-50058 no later than 30 calendar days of receiving the SSN documentation, to enable HUD to initiate its computer matching efforts for current program participants.

Note: HUD does not initiate computer matching efforts for applicants.
HUD, via its computer matching program with SSA, will validate the SSN (along with the individual's name and date of birth) against the SSA's database. EIV will report the

status of the identity verification process as **Verified, Pending, Excluded,** or **Deceased** on the household ***Summary Report***. Below is a summary of the action DHC is required to take for each identity verification status.

a. Verified: If the information matches the SSA database, the individual's identity verification status will be **Verified.** No action is required by DHC.
b. Failed: If the information does not match the SSA database, the identity verification status will be **Failed.**
c. Pending: If an individual's identity verification status is **Pending,** this means that HUD has not yet sent the tenant's personal identifiers to SSA for validation. No action is required by DHC.
d. Excluded: Effective April 30, 2012, if an individual's identity verification status is **Excluded**, this means HUD will not send the tenant personal identifiers to SSA for validation because a valid SSN is not reported on line 3n of the form HUD-50058, or the individual has failed EIV pre-screening.
e. Deceased: If an individual's identity verification status is **Deceased**, this means SSA's records indicate the person is deceased. DHC is required to confirm death with the family's head of household or listed emergency contact person. If the individual is deceased and was the only household member or the only surviving household members are a live-in aide's family (single member household), DHC must complete an End of Participation (EOP) action on form HUD-50058 and discontinue assistance and/or tenancy. If the individual is not deceased, refer to the instructions in PIH Notice 2012-04, dated January 1, 2012 (or any successor notice)

   If there are authorized household members remaining in the program, update the family composition, accordingly, complete an interim reexamination action on form HUD-50058,

DHC is required to retain the EIV ***Summary Report*** or ***Income Report*** in each family file as confirmation of compliance with the SSN disclosure, documentation, and verification requirements. Electronic retention of these reports is possible.

Once the individual's identity verification status is classified and **Verified**, DHC may, at its discretion, remove and destroy the copy of the documents referenced in Section 2, Acceptable SSN Documentation, and in Section 7, Verification of the SSN above. Paper documentation must be destroyed by either shredding or burning. Electronic documentation must be destroyed by erasing or permanently deleting the file.

DHC is encouraged to minimize the number of tenant records that contain documents which displays the full nine-digit SSN. DHC is permitted to maintain EIV income reports in the tenant file for the duration of tenancy, and no longer than three years from the end of participation date.

8. Invalid SSN's: An invalid SSN is an SSN that SSA has never assigned. SSA has never assigned an SSN with the first three digits of: 000, 666, or 900 series (numbers within the 900-999 range). Additionally, prior to June 25, 2011, SSA never assigned an SSN with the first three digits of: 000, 666, 772, 800, or 900 series. SSA has never assigned an SSN with the second two digits of 00 or the last four digits of 0000.

   If you suspect someone of committing fraud, waste, or abuse against SSA, report it to SSA's Office of Inspector General (OIG) by mail, fax, or phone.

9. Individuals without an assigned SSN. It is not uncommon for certain individuals to not have an SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

a. U.S. newborn children (eligible citizens-these individuals will be issued an SSN upon SSA conformation of birth).
b. Noncitizens lawfully present in the U.S. (ineligible noncitizens-these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for).
c. Noncitizens unlawfully present in the U.S. (ineligible noncitizens – typically, these individuals cannot be assigned an SSN).

DHC is required to use the Public and Indian Housing Information Center (PIC) Tenant ID Management tool to generate a unique identifier (commonly referred to as alternate ID (ALT ID)) for those individuals who have not been assigned an SSN.

Once an individual discloses an SSN, DHC must use the Tenant ID Management tool to replace the ALT ID with the disclosed SSN within 30 calendar days of thereceipt of the SSN.

Note: SSA requires that an individual who has never been issued an SSN card or has lost their SSN card, complete Form Ss-5 – *Application for a Social Security Card* to request an original or replacement SSN card or change information on his/her SSA record. The form is available online at: www.socialsecurity.gov, or can be obtained at the local SSA office.

10. Individual Taxpayer Identification Number (ITIN): An ITIN is a taxpayer identification number for **Federal tax purposes only** for certain non-residents and resident noncitizens, their spouses, and dependents, who cannot obtain an SSN. However, the ITIN is **not** an SSN and DHC must **not**report the ITIN on line 3n of the form HUD-50058. DHC is required to usethe Tenant ID Management tool to replace any reported ITIN on line 3n ofthe form HUD-50058 with an SSN or an ALT ID.

    ITIN's do not entitle a noncitizen to social security benefits, create, or interfere with a noncitizen's immigration status, or give a noncitizen a right to work in the U.S.

## 7-2B. VERIFICATION OF NON-FINANCIAL FACTORS

1. Legal Identity

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. The following documents are also acceptable, together with a self-certification on a form provided by DHC, to verify identity if the birth certificate or other official record of birth or evidence of receipt of social security retirement benefits is not available:

- Current, valid Driver's License (Photo Only)
- U.S. military discharge (DD 214)
- U.S. passport
- Adoption records
- Custody agreement
- School records
- Department of Motor Vehicles Identification Card (Photo only)
- Naturalization papers
- Church-issued baptismal certificate
- Company/agency identification card
- NUMI

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

2. Family Relationships

Applicants and program participants are required to identify the relationship of each household member to the head of household.

Self-certification by the head of household will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification as follows:

- To verify relationship, official identification showing names or birth certificates

- To verify guardianship:
  - Court-ordered assignment.
  - Affidavit of parent; or
  - Verification from a social services agency.

3. Marital Status

DHC will require the family to document a marriage. A marriage certificate generally is required to verify that a couple is married.

4. Separation or Divorce

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced. A copy of court-ordered separate maintenance or other court record may be required to document a separation. If DHC has reasonable doubts about a separation, DHC will require the family to document the separation by notarized statement.

5. Absence of Adult Family Member

If an adult member who was formerly a member of the household is reported to be permanently absent, DHC may require that the family provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a utility bill).

6. Foster Children and Foster Adults

Third-party verification from an authorized agency responsible for the placement of the individual with the family is required.

7. Change of Family Composition

DHC may verify changes in family composition, either reported or unreported, through letters, telephone calls, utility records, inspection, landlords, neighbors, school or Department of Motor Vehicles records, and other sources.

8. Disability

DHC will verify the existence of a disability in order to allow certain income disallowances and deductions from income. DHC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the DHC receives a verification document that provides such information, DHC will not place this information in the participant's file. DHC shall return the document, destroy the document or redact it. Under no circumstances will DHC request a participant's

medical record(s). However, DHC may request discharge documentation in certain circumstances to confirm the length of stay.

### a. Family Members Receiving SSA Disability Benefits

For family members claiming disability who receive disability benefits from the SSA, DHC will attempt to obtain information about disability benefits through the EIV system. If documentation from the EIV System is not available, DHC will request a SSA benefit award letter from each family member claiming disability status. If unavailable, the family may request a benefit verification letter by either calling SSA or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter it is to be provided to DHC.

### b. State SSI Payment

The Michigan Department of Human Services (DHS) issues a Michigan SSI Payment (SSP) to SSI recipients in the following living arrangements:

- Independent living.
- Household of another, e.g., living in the household of another person and receiving partial or total support and maintenance in-kind from that person.

### c. Family Members Not Receiving SSA Disability Benefits

Receipt of veteran's disability benefits, workers' 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.

For family members claiming disability who receive non-SSA benefits, verification by an appropriate diagnostician such as a physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, on a form provided by DHC, is required.

## 7-2C. VERIFYING CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]

1. Overview

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible non-citizen or an ineligible non-citizen 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 participation. Verification of non-citizens having temporary status will need to be re-verified before the expiration date. [24 CFR 5.508(g) (5)]

Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his/her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while a DHC review is pending.

Citizens or nationals of the United States must provide a complete and sign a Declaration Status 214 form to certify citizenship under penalty of perjury.

2. Eligible Immigrants

All non-citizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to DHC. All non-citizens must sign a verification consent form. Additional documents are required based upon the person's status.

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 SSA old-age benefits.

DHC will verify immigration status through the INS SAVE system. If this primary verification fails, within 10 business days DHC will submit a request to the INS to conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household, co-head, or spouse.

Non-citizen students on student visas are ineligible family members even though they are in the country lawfully. They must provide their student visa, but their status will not be verified, and they will not sign a declaration but are listed on the statement of ineligible family members.

If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible family member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other eligibility factors. For family members added after other family members have been verified, the verification occurs at the time they are added to the household. Once verification has been completed for any Housing Program, it need not be repeated except, in the case of port-in families, if the initial PHA does not supply the documents, DHC will request this documentation from the initiating PHA. If notice is received from HUD that a household member is an ineligible citizen, DHC will perform verification.

Extension must be given for persons who declare their eligible immigration status but need time to obtain the required documents. The length of the extension shall be based on individual circumstance. DHC will allow up to maximum of 60 days to provide the document or a receipt issued by the INS for issuance of replacement documents.

DHC will follow all USCIS protocols for verification of eligible immigration status.

## 7-2D. VERIFICATION OF PREFERENCE STATUS

DHC will verify any preferences claimed by an applicant that determined placement on the waiting list.

## 7-2 E. VERIFICATION OF STUDENT STATUS

**General Requirements**
DHC requires families to provide information about the student status of all students who are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head.
- The family reports childcare expenses to enable a family member to further his or her education.
- The family includes a student enrolled in an *institution of higher education.*

**Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**
This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

In accordance with the verification hierarchy described in Section 7-1. B, DHC will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see Section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in Section 3-2E.
- The student is married.
- The student has at least one dependent child, as defined in Section 3-2E.
- The student is a person with disabilities, as defined in Section 3-2E, and was receiving assistance prior to November 30, 2005.

If DHC cannot verify at least one of these exemption criteria, DHC will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to

verifying the student's income eligibility, DHC will then proceed to verify either the student's parents' income eligibility or the student's independence from his/her parents (see below).

***Independent Student***

DHC will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all the following:

- Both reviewing and verifying previous address information to determine whether the student has established a household separate from his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student.*

- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.

- Requesting and obtaining written, notarized certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

## 7-2 F. DOCUMENTATION OF DISABILITY

DHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DHC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC will not place this information in the participant file. Under no circumstances will DHC 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:

- 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

## PART III: VERIFYING INCOME AND ASSETS

## 7-3 A. VERIFICATION OF INCOME

When verifying income, DHC may choose to use either actual past income or projected future income. DHC may determine annual income based on past actual income received or earned within the last 12 months.

For the purpose of verifying income based on the past actual income received or earned within the last 12 months, DHC will use the most recent 12 months of income information available in EIV. Because the EIV report will give actual earnings data verified by a third-party, DHC will no longer require program participants to provide third-party documentation, e.g., check stub, payroll summary report, unemployment monetary benefits notice. DHC will use the most recent 12 months of income information available in EIV for this purpose.

If there has been a change in circumstances for a participant, or a participant disputes the EIV-reported income information and is unable to provide acceptable documentation to resolve the dispute, DHC will request third-party verification. DHC will continue to verify income from sources not available in EIV. DHC will use the same time period for both wage and non-wage income.

If DHC cannot verify income using the EIV, it will verify income in accordance with the methods described below based upon type of income to be verified.

1. Employment Income

Acceptable methods for verifying employment income include:

. • Employment verification form completed by the employer or completed by DHC staff via telephone conversation with employer when staff initiates the call.
- Employers should specify the following on the verification form:
- Dates of employment
- Amount and frequency of pay
- Date of the last pay increase
- Likelihood of change of employment status and effective date of any known salary increase during the next 12 months
- Year to date earnings; and
- Estimated income from overtime, tips, bonus pay expected during next 12 months.

• Check stubs or earning statements indicating the employee's gross pay, frequency of pay or year to date earnings.
• W-2 forms plus income tax returns.
• Income tax returns signed by the family for verification of self-employment income or income from tips and other gratuities.

When doubt regarding income exists, applicants and participants may be requested to sign an authorization for release of information from the IRS for further verification of income. Referrals to the IRS for confirmation will be made on a case-by-case basis.

2. Social Security, Pensions, Supplementary Security Income (SSI), State SSI Disability or Death Benefits

Acceptable methods of verification include:

- Computer report electronically obtained through the EIV system.
- Award or benefit notification letters provided by the agency providing the benefits (required if a new award, within the past 12 months)
- Computer generated award provided by the agency providing the benefit. (in lieu of notification letters provided by the agency providing the benefits if a new award, within the past 12 months).

Income determination during annual recertification for household members who received fixed income from the above sources at the prior recertification will be made by applying a verified cost of living adjustment (COLA). The COLA to each source of fixed income must be obtained either from a public source, participant provided or through agency notice. In the absence of such verification, third party verification will be required.

For a family member whose income is determined prior to July 1, 2017, third party verification of all income amounts for all family members must be performedat least every three years.

3. Unemployment Compensation

Acceptable methods of verification include:

- EIV.
- Original payment stubs or award letters.
- Written statement from providing agency.
- Computer printouts from unemployment office stating payment dates and amounts.
- Original unemployment payment stubs.

4. Welfare Payments or General Assistance

Acceptable methods of verification include:

- Computer printout provided by the providing agency.
- Original payment stubs or award letters.
- Written statement from providing agency indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.
- Computer-generated Notice of Action.
- Computer-generated list of recipients from providing agency.

5. Alimony or Child Support Payments

Acceptable methods of verification include:

- Copy of separation order, settlement agreement, divorce decree stating amount and type of support and payment schedules, or court order.
- Payment disbursement report within previous 12 months.
- Copy of latest check and/or payment stub from a court trustee. DHC staff must record the date, amount, and number of the check.
- Notarized letter from person paying the support.
- Family's self-certification of amount received, and the likelihood of support payments being received in the future, or self-certification that support payments are not being received.
- If payments are irregular and not included on the disbursement report copy of separation or settlement agreement or divorce decree stating the amount and type of support and payment schedules and one of the following:
  - Statement from agency responsible for enforcing payments demonstrating that the family has filed for enforcement.
  - Welfare Notice of Action showing amounts received by the welfare agency for child support; or
  - Written statement from an attorney certifying that a collection or enforcement action has been filed.

6. Net Income from a Business

Acceptable methods of verification include:

- IRS Form 1040, including:
  - Schedule C (Small Business).
  - Schedule E (Rental Property Income); and
  - Schedule F (Farm Income).
- Documents such as manifests, appointment books, cash books, bank statements, and receipts, will be used as a guide for the prior six (6) months, or lesser period if not in business for six months, to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not currently available.
- If the applicant/participant is operating a "cash and carry" childcare operation, which may or may not be licensed, DHC will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.
- If the family has filed a tax return, the family will be required to provide it.
- A notarized self-employment certification.

7. Recurring Gifts & Contributions

DHC form 879 Personal Declaration can be used to certify recurring gifts. Self-certification will contain the following information:

- Name of gift-provider.
- Value of gifts.
- Regularity (dates) of gifts; and
- Purpose of gifts.

8. Zero Income Status

Households claiming zero household income and households whose sole source of income is reported as outside contributions and/or gifts will be required to complete a DHC-approved form to certify their income status, in person, every six months. The family may be required to provide DHC with expense receipts detailing monthly expenses. DHC may require tax returns for all adult members reporting zero or no income.

For other adults in the household who report zero income, including adults who are not full-time students and are not disabled, the DHC Certification of Zero Household Income and Zero Income Checklist form must be completed and signed by the member and head of household.

DHC may check records of other agencies in the jurisdiction that have information about income sources of participants.

Households that report zero income may be subject to credit screening and an IRS 4506-T for all adult household members.

8. Minimum Income

Households claiming a minimum annual monetary income of $6,000 or less will be required to complete a DHC –approved form certifying their income sources and expenses in person every six – months (through an Interim Income Certification) The verification may require the family to submit documentation to support monthly expenses (including but not limited to tenant paid utilities, transportation, household expenses (food, clothing, etc.)

9. Full-Time Student Status

Acceptable methods of verification include:

- Written verification or letter from the registrar's office.
- Current online printout of enrollment from the institution
- School records indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution during the current school year.

10. Acceptable Methods for Verification and Determination of Income from Assets

When net family assets are $5,000 or less, DHC 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, DHC 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.

DHC will obtain third party verification of all family assets at least every three years. During the intervening annual recertifications, DHC will accept a family's declaration of the total net assets equal to or less than $5,000 without taking additional steps to verify the accuracy of the declaration. If the family submits such a declaration (asset total less than $5,000), signed by all household members age 18 and older, DHC does not need to request supporting documentation to verify the assets or the amount of income expected to be received from the assets. The family/household declaration of total assets must show each asset and the amount of income expected from the asset. As long as the self-declaration is signed and accurate, DHC will not need to request supporting documentation such as bank statements from the family to confirm the assets or the amount of income expected to be received from those assets.

Where the family has net family assets in excess of $5,000, DHC will obtain supporting documentation such as bank statements from the family to confirm the assets. Any assets will continue to be reported on HUD Form 50058. Forms of acceptable documentation are listed below based upon asset type.

**a. Checking and Savings Account Interest Income and Dividends**

- DHC verification forms completed by the financial institution.
- Account statements, passbooks, certificates of deposit.
- Broker's statements showing value of stocks or bonds and the earnings credited to the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.
- IRS Form 1099 from the financial institution, provided that DHC adjusts the information to project earnings expected for the next 12 months.

**b. Interest Income from Mortgages or Similar Arrangements**

- Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.
- Certification from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for the next 12 months

**c. Net Rental Income from Property Owned by Family**

- IRS Form 1040 with Schedule E (Rental Income).

- Copies of latest rent receipts, leases, or other documentation of rent amounts.
- Documentation of allowable operating expenses of the property such as tax statements, insurance invoice, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
- Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

#### d. Assets Disposed of For Less Than Fair Market Value

DHC will obtain the family's self-certification as to whether any member has disposed of assets for less than fair market value during the two (2) years preceding the effective date of the self-certification or self-recertification.

If the family self-certifies that they have disposed of assets for less than fair market value, the self-certification must show:

- All assets disposed of for less than fair market value.
- Date assets were disposed of.
- Amount the family received; and
- Market value of the assets at the time of disposition.

Third-party verification will be obtained whenever possible.

## 7-3 B. INCOME FROM EXCLUDED SOURCES

DHC will obtain verification for income exclusions only if, without verification, DHC 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, DHC will confirm that DHC 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.

DHC 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).

# PART IV: VERIFYING MANDATORY DEDUCTIONS

## 7-4 A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS

The dependent and elderly/disabled family deductions require only that DHC verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

1. Dependent Deduction

DHC will verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head of household, spouse, or co-head of the family and is not a foster child.
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

2. Elderly/Disabled Family Deduction

DHC will verify that the head of household, spouse, or co-head is 62 years of age or older or a person with disabilities.

## 7-4B. MEDICAL EXPENSE DEDUCTION

The amount of the deduction will be verified following the standard verification procedures described in Part I.

1. Amount of Expense

DHC will verify medical expenses through:

- A third-party verification form signed by the provider, when possible.
- Copies of cancelled checks used to make medical expense payments.
- Printouts or receipts from the source. In this case DHC will make its best effort to determine what expenses from the past are likely to continue to occur in the future. DHC 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 verification or document review is not possible, a written notarized family self-certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, DHC will 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.

2. Eligible Household

The medical expense deduction is permitted only for households in which the head of household, spouse, or co-head is at least 62 or a person with disabilities. DHC will verify that the family meets the definition of an elderly or disabled family.

3. Qualified Expenses

To be eligible for the medical expense's deduction, the costs must qualify as medical expenses and must not be reimbursed by another source.

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

4. Expenses Incurred in Prior Years

When anticipated costs are related to on-going payment of medical bills incurred in prior years, DHC will review:

- 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 prior years.

## 7-4C. DISABILITY ASSISTANCE EXPENSES

The amount of the deduction will be verified following the standard verification procedures described in Part I.

1. Attendant Care/Chore Provider

DHC will provide a third-party verification form directly to the care provider requesting the needed information. Written certification from a reliable, knowledgeable licensed professional that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

Expenses for attendant care will be verified through:

- A third-party verification form signed by the provider.
- Copies of cancelled checks used to make payments and/or receipts from source.
- Written, notarized family self-certification as to costs anticipated to be incurred for the upcoming 12 months.

2. Auxiliary Apparatus

Expenses for auxiliary apparatus will be verified through:

- A third-party verification of anticipated purchase costs of auxiliary apparatus.

- 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.
- Written, notarized family self-certification of estimated apparatus costs for the upcoming 12 months.

In addition, DHC will verify that:

- The family member for whom the expense is incurred is a person with disabilities.
- The expense permits a family member, or members, to work.
- The expense is not reimbursed from another source.
- The expense does not exceed the amount of the earned income of the individual freed for work.

3. 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. DHC will determine whether the expense is incurred for a person with disabilities.

4. Family Member(s) Permitted to Work

DHC will verify that the expenses claimed actually enable a family member, or members, including the person with disabilities, to work.

DHC 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, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

If third-party verification and document review has been attempted and is either unavailable or proves unsuccessful, the family must self-certify that the disability assistance expense frees a family member, or members, possibly including the family member receiving the assistance, to work.

5. Unreimbursed Expenses

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

The family will be required to self-certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source on the Personal Declaration (DHC 879).

## 7-4D. CHILD CARE EXPENSES

1. Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. DHC will verify that the child being cared for, including a foster child, is under the age of 13. See Chapter 6.

The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. Written documentation to support the expense is required.

If the childcare provider is an individual, a statement of the amount the individual is charging the family for the service must be provided.

All verifications must specify the name of the childcare provider, address, telephone number, SSN or TIN, names of child(ren) cared for, number of hours cared for, rate of pay, and typical yearly amount paid, including school and vacation periods.

In addition, DHC will verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of childcare.
- The costs are reasonable if seeking employment or furthering education.

2. Unreimbursed Expense

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

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

The family will be required to self-certify that the childcare expenses are not paid by or reimbursed to the family from any source.

3. Pursuing an Eligible Activity

DHC will 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.

DHC 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.

4. Seeking Work

If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each re-examination or interim re-examination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DHC.

To qualify for childcare deductions under the provision of actively seeking employment, the family member may be a participant in an official job search program or may simply demonstrate independent job search activities. In either case, in order to verify the time spent in seeking employment, DHC will require the family to maintain a log that reflects all activity seeking employment. DHC will use the information on the log to verify the contacts and the eligibility of childcare expenses. Since job search activities may be irregular and not easily anticipated, DHC may attempt a limited inclusion at the annual re-examination and conduct an interim re-examination after some actual expenditures have been incurred. In many instances, job search periods will be of limited duration, but in some cases the job search period may be extended, especially if the type of employment sought is limited in availability, employment opportunities of any kind are scarce, or the job skills needed are unusual.

5. Furthering Education

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school, academic or vocational, or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities, must be commensurate with the childcare expense claimed.

6. Being Gainfully Employed

If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity, full- or part-time, for which a family member is compensated.

7. Earned Income Limit on Child Care Expense Deduction

When a family member looks for work or furthers his or her education, the cap on the amount that may be deducted for childcare must be necessary and reasonable as determined by DHC. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income".

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above $480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only $5,000 is included in annual income, childcare expenses are limited to $5,000.

DHC must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DHC generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

8. Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. DHC may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

9. 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, childcare expenses paid to a family member who lives in the family's unit are not eligible. However, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DHC will pro-rate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be pro-rated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

10. Necessary and Reasonable Costs

Childcare expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment or further his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enable a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of childcare costs, DHC will use the schedule of childcare costs from either the local welfare agency or from qualified professional services in the area. Families may present, and DHC will consider, justification for costs that exceed typical costs in the area.

# CHAPTER 8
# HOUSING STANDARDS AND RENT REASONABLENESS DETERMINATIONS
# [24 CFR 982 SUBPART I AND 24 CFR 982.507]

## INTRODUCTION

HUD requires that all units occupied by families receiving HCV assistance meet HUD's Housing Quality Standards (HQS) and permits DHC to establish additional requirements. DHC can enhance its HQS standards provided that by doing so, it does not overly restrict the number of units available for lease under the HCV Program. HQS are the HUD minimum quality standards for tenant-based programs

The use of the term "HQS" in this Admin Plan refers to the combination of HUD and DHC established requirements. HQS inspections are required before the Housing Assistance Payment (HAP) Contract is signed and at least annually during the term of the HAP Contract. HUD and DHC rules and regulations prohibit any payments to the owner prior to a unit passing the HQS inspection.

HUD also requires DHC to determine that units rented by families assisted under the HCV Program that rents are reasonable when compared to comparable unassisted units in the market area.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply.

This chapter explains HUD and DHC requirements related to HQS and rent reasonableness as follows:

**Part I: Housing Quality Standards**. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies emergency conditions that must be addressed on an expedited basis.

**Part II: The Inspection Process.** This part describes the type of inspections that DHC will make and the steps that will be taken when units do not meet HQS.

**Part III: Rent Reasonableness Determinations.** This part discusses the policies DHC will use to make rent reasonableness determination.

**PART I: HOUSING QUALITY STANDARDS (HQS)**

## 8-1A. HUD PERFORMANCE AND ACCEPTABILITY STANDARDS

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401.

DHC will make efforts to encourage owners to provide housing above HQS minimum standards.

1. Illumination and Electricity

Ground Fault Circuit Interrupter (GFCI) receptacles are required in all bathrooms within the unit including in half baths.

Receptacles installed within 6 ft. of the outside edge of a water source must also be GFCI-protected.

All three-prong outlets must be grounded. If no ground wire exists, two prong outlets are acceptable.

Light fixtures must have covers/globes to eliminate exposed wires.

2. Structure and Materials

In order to prevent water damage and eventual deterioration, all walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water.

Damaged or deteriorated sashes must be replaced, or window clips inserted.

One window in each living area must include at least one fully operational screen.

Storm doors are not required but, if present, they must be in a safe, operable condition with the closer mechanism intact.

All worn or cracked toilet seats and tank lids must be replaced, and the toilet lid must fit properly.

3. Space and Security

The family must not be required to go through one bedroom to get to another bedroom.

If window bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Smoke detectors must be on each level including the basement. Smoke detectors must meet the requirements of the National Fire Protectors Association standard 74 or any successor standard.

DHC will require owners to meet state or local law or building codes related to having operational carbon monoxide (CO) detectors in units to meet Housing Quality Standards. If state or local law or building code do not require CO detectors, DHC will require CO detectors in units that have (1) fuel-fired/burning appliance(s), (2) an attached garage or (3) in bedrooms that contain a fireplace or fuel-fired or burning appliances. Owners may use a combination smoke-detector/CO detector in lieu of installing two devices (as long as not prohibited by state or local requirements). Units failing to meet the state or local law related to CO detectors or DHC required CO detectors will fail HQS as a 24-hour life threatening category.

In addition, the following identified items must be addressed:

- Smoke detectors must have a visible signal for the hearing impaired and connected to a smoke detector immediately outside the bedroom occupied by the hearing-impaired occupant.
- A handrail must be installed where 3 or more risers exist including steps located outside, on a second floor, in a basement and in an attic.
- A guardrail must be positioned on the opened side of a staircase.
- A guardrail is required on both sides when there is more than a 30-inch drop from the ground level and top step.
- A simple bolt lock on exterior doors may be used along with a regular key lock. Double cylinder deadbolt locks are NOT allowed, as they present an emergency exit hazard.
- CO detectors should be either stand-alone or combination smoke detectors-CO detectors and must be in units that have fuel-fired burning appliances.

4. Site and Neighborhood

Downspouts must have diverters to avoid water from entering the unit causing mold/mildew.

Severe infestation of mice or rats must be addressed by a licensed technician and all access points must be closed off to ensure that the unit is adequately barricaded.

5. Bed Bugs

Owners are responsible for keeping the entire building free from vermin. Participants are responsible for the cleanliness of those parts of the premises that they occupy and control. Therefore, it is essential that landlords and participants work together to eliminate bed bugs. While mice and ants typically come in from the outside, bed bugs are more commonly carried in, via luggage, old mattresses, and furniture. If a

participant reports an infestation of bed bugs in the unit, it shall be the responsibility of the owner to prepare to inspect the unit right away. As with any other damage caused by a participant, the landlord may charge the participant for the cost to treat the unit if it is determined that the participant is responsible for the infestation.

If the landlord has reason to conclude that the participant has an isolated incident of bed bug infestation and that the participant is responsible for the infestation, the landlord shall not be required to eradicate the infestation. In these instances, the participant shall be responsible for exterminating the bed bug infestation in the unit. This should be included in the landlord's lease. If it is determined that it due to neglect on the part of the landlord, it shall be the responsibility of the landlord to pay for the eradication.

6. Access

The unit must provide an alternate means of exit from the building in case of fire or another emergency. The exits cannot be blocked or obstructed by debris, used as a storage area, or secured by nails. All security bars/doors must be quick release.

7. Hazards and Health/Safety

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood should be free of hazards to the family's health and safety.

## 8-1C. TENANT PREFERENCE ITEMS

HUD requires DHC to enforce minimum HQS but also requires that certain judgments about acceptability be left to the family. For example, DHC must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic condition of the facilities is acceptable.

## 8-1D. MODIFICATIONS TO PROVIDE ACCESSIBILITY

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit.

However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the participant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the participant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2002-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151 (c0 and Notice 2003-31]. See Chapter 2 of this Admin Plan for additional information on reasonable accommodations for persons with disabilities.

## 8-1 E. EMERGENCY CONDITIONS [24 CFR 982.404(a)]

HUD requires that DHC define emergency conditions and to notify the owner or the family, whichever is responsible, of the corrections required.

The following are considered emergency conditions:

- Lack of security, a condition that jeopardizes the security of the unit.
- Major plumbing leaks or flooding, waterlogged ceiling.
- Ceiling in imminent danger of falling.
- Floor in imminent danger of collapse.
- Natural or LP gas or fuel oil leaks/fumes.
- Any electrical problem or condition that could result in shock or fire.
- Absence of a working heating system when outside temperature is expected to be below 60 degrees Fahrenheit.
- Utilities not in service, including no water.
- Conditions that present the imminent possibility of injury.
- Obstacles that prevent safe entrance or exit from the unit.
- Absence of a functioning toilet in the unit.
- Inoperable smoke detectors.
- Broken glass where someone could be injured.
- Inoperable carbon monoxide (CO) detectors where required.

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, DHC will notify the proper authorities.

## 8-1F. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225]

If DHC is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, DHC or its designee will complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical care provider. The environmental investigation must be completed in accordance with HCV Program

requirements and the results of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information will be provided to the owner.

Within 30 days after receiving the environmental investigation report from DHC, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations in 24 CFR 35.1325 and 35.1330. If the owner does not complete the hazard reduction as required, the dwelling unit is in violation of HQS and DHC will take action to abate the HAP. Certification that the hazard reduction has been completed will be conducted at the owner's expense by a licensed industry professional. DHC reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

## 8-1 G. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

If DHC determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, DHC will issue the family a new voucher and the family must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DHC must terminate the existing HAP Contract in accordance with its terms. If an acceptable unit is not found within 120 days, the family's voucher will be expired.

A unit meets the HQS space standard if the dwelling unit has at least one bedroom or living/sleeping room for each two persons. A living/sleeping room is considered any space that is not a kitchen or a bathroom.

DHC will verify at each inspection whether or not an extra bedroom authorized as a reasonable accommodation for medical equipment, a live-in aide, or for the person with disabilities is being utilized as approved in the reasonable accommodation.

Examples of improper use of the extra bedroom include but are not limited to, the following:

- The size of equipment does not warrant an extra bedroom.
- No medical equipment is present in the extra bedroom.
- The bedroom not utilized as a bedroom for the live-in aide.
- The bedroom is not utilized as a bedroom for the person with the disability.

## PART II: THE INSPECTION PROCESS

## [24 CFR 982.405]

## 8-2 A. TYPES OF INSPECTIONS

DHC conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

**1. Initial Inspections.** DHC conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV Program. The unit must pass the HQS inspection before the effective date of the HAP Contract.

**2. Annual Inspections.** HUD requires DHC to inspect each unit under lease at least annually to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual re-examination but also may be conducted separately.

**3. Special (Complaint) Inspections.** A special inspection may be requested by the owner, the family, or a third-party as a result of problems identified with a unit between annual inspections.

**4. Quality Control Inspections.** HUD requires that a sample of units be re-inspected by a supervisor or other qualified individual to ensure that HQS inspections are being enforced correctly and uniformly by all inspectors.

## 8-2B. INSPECTION OF DHC-OWNED UNITS [24 CFR 982.352(B)]

DHC must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a DHC-owned unit. A DHC-owned unit includes a unit owned by DHC or an entity substantially controlled by DHC. The independent agency must communicate the results of each inspection to the family and DHC. The independent agency must be approved by HUD.

## 8-2C. GENERAL INSPECTION REQUIREMENTS

1. Inspection Costs

DHC may not charge the family or owner for unit inspections [24 CFR 982.405(e)]. In the case of inspections of DHC-owned units, DHC may compensate the independent agency for inspections performed from ongoing administrative fees. DHC and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

2. Notice and Scheduling

The family must allow DHC to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

The family and the owner will be given reasonable notice of all inspections. Except in the case of an emergency, reasonable notice is considered notice of not less than 7 days for all inspections other than initial inspections. Health and safety inspections may occur with a 24-hour notice. Reasonable times to conduct inspections are on business days between 8:00 a.m. and 5:00 p.m. Exceptions may apply.
In the case of an emergency, less than a 24-hour notice may be necessary.

3. Attendance at Inspections by Owner and Family

The family and owner will be notified of the date and time of the inspection appointment. When a family occupies the unit at the time of inspection, the head of household or designee over the age of 18 or older must be present for the inspection. The presence of the owner or the owner's representative –recommended.

If the head of household or designee over the age of 18 or older cannot be present on the scheduled date, the family should request that DHC or its designee reschedule the inspection. DHC or its designee and the family will agree on a new inspection date that generally should take place within 10 business days of the originally scheduled date. DHC or its designee may schedule an inspection more than 10 business days after the original date. A maximum of one rescheduling of the inspection will be permitted between the owner and family. Exceptions to the number of rescheduling requests honored by DHC must be approved by the Director of Assisted Housing or designee.

If the scheduled inspection cannot occur because no-one is home or available to allow access, and there was no rescheduled inspection, the inspection will be classified as a Failed Inspection with notification of possible penalty to both owner and client (HAP Abatement and Termination). If the second scheduled inspection (classified as a re-inspection) results in no-one home or available to allow access, the inspection will be classified as a Second Failed Inspection – the HAP contract will be placed in Abatement (the first of the next month), the family/participant notified of a pending program termination. To remove the status both the owner and family representative must attend the next scheduled HQS Inspection.

The termination of the family’s assistance is accordance with Chapter 12.

At initial inspection of a vacant unit, DHC will inspect the unit in the presence of the owner or owner's representative. For safety reasons, DHC will not conduct an inspection of a unit with a lockbox. The presence of a family representative is permitted but is not required.

4. Inspector Discretion Regarding Insect or Rodent Infestation

An inspector encountering infestations of insects or rodents upon any premises, may, at their discretion, cease the inspection until such time that the owner provides written certification of eradication of the infestation.

5. Notification of Inspection Results and Violation Correction

After the inspection, DHC will inform the owner and the family of the results and any violation(s) of HQS standards. If a unit passes HQS but does not proceed to contract, the HQS inspection will remain good for sixty days and can be transferred to another client. The client and owner will be required to sign off on the pass status. If violation(s) are noted, the violation(s) must be corrected by the owner or the participant, whichever is responsible for correcting the violation(s) by the date for which the re-inspection is scheduled. If no re-inspection has taken place within 30 calendar days, the owner or participant must notify DHC and request an immediate inspection.

When emergency violation(s) are identified, DHC will immediately notify both parties in person, telephone, facsimile, or email. The notice will specify who is responsible for correcting the violation(s). The corrective actions must be taken within 24 hours of the notice. The re-inspection may occur later than 24 hours in cases of weekends, holidays, or other business-related unforeseen reasons.

When violations that are not emergencies are identified, DHC will send the owner and the family notification of the inspection results within 5 business days of the inspection. The notice will specify who is responsible for correcting the violation, and the time frame within which the violation must be corrected. No more than 30 days will be allowed for the correction unless DHC decides to allow an extension for good cause, i.e., weather related delays.

The notice of inspection results will inform the owner that if emergency violations are not corrected within 24 hours and non-emergency violations are not corrected within 30 days or any DHC-approved extension, the owner's HAP (rent) will be abated in accordance with DHC policy. Likewise, in the case of family-caused violations, the notice will inform the family that if corrections are not made within the specified time frame, or any DHC-approved extension, the family's assistance will be terminated in accordance with DHC policy.

## 8-2D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

1. Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Participant-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" are defined as items that could be charged against the participant's security deposit under state law or court practice.

2. Owner Responsibilities

The owner is responsible for all HQS violations that are not a family responsibility.

The owner is responsible for eliminating vermin infestation, even if caused by the family's living habits. However, if such infestation is serious and repeated, i.e., more than 2 times for the same type of infestation within a 12-month period, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease.

DHC may terminate the participant's assistance on that basis with verified owner documentation of previous eradication.

However, vermin entry or infestation through unsealed openings in walls, attics, doors, windows, or pipes, etc. that pass to the exterior of a unit is the owner's responsibility.

The owner will be required to repair an inoperable smoke detector unless it has been determined the family has intentionally disconnected it by removing batteries or other means. In that case, the family will be required to repair the smoke detector within 24 hours.

3. HQS Inspector's Determination

The HQS inspector will make the 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 DHC will note the family's file with appropriate documentation

4. Extensions

DHC cannot grant an extension to the 24-hour correction period for emergency violations. For non-emergency violations, DHC may grant an exception to the 30-day correction period if DHC determines that an extension is appropriate [24 CFR 982.404].

Extensions may be granted in cases where DHC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis but will not exceed 60 days except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. DHC will consider Delayed Exterior Repair

Extensions (DER) beginning with inspections conducted November 15 through April 15. Scheduling of re-inspection of the deficient items will begin as of May 1st depending upon weather conditions. If upon re-inspection of the DER extension, DHC confirms that deficiencies have not been corrected, HAP abatement will be retroactive to the original deficiency date. If not corrected within 30 days of the DER re-inspection, one final re-inspection will be allowed. If the unit does not pass this final inspection the HAP Contract will terminate at the end of the following month. No additional inspections will be granted.

## 8-2E. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

1. Timing of Initial Inspection

HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract. The initial inspection is conducted to (1) determine whether the unit and property meet HQS, (2) document the current condition of the unit to assist in future evaluations to determine whether the condition of the unit exceeds normal wear and tear, and (3) document the information to be used to determine rent reasonableness.

DHC will conduct the initial inspection within a reasonable time after receiving a Request for Tenancy Approval (RFTA) from the family. Every effort will be made to conduct the inspection within 15 days of receiving the RFTA.

2. Inspection Results and Re-inspection

If the unit fails the initial HQS inspection, the family and owner will be advised to notify DHC once repairs are completed. The owner will be given up to 15 days from the date of the inspection to correct the deficiencies identified depending on the amount and complexity of work to be done. If requested by the owner, the time frame for correcting the deficiencies may be extended by DHC for good cause.

If the time period given by the inspector to correct the repairs has elapsed, or the maximum number of failed re-inspections has occurred, DHC will notify the owner and the family the unit has been rejected and the family must search for another unit.

Following a failed re-inspection, the family may submit a new RFTA for the same unit if the family has not found another unit by the time the owner completes all repairs, and the family continues to wish to live in the unit.

3. Utilities

At initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying. All utilities must be on to make a full and accurate inspection of the unit.

4. Appliances

Appliances must be in the unit in order to meet HQS requirements.

## 8-2 F. HQS INSPECTIONS [24 CFR 982.405(a)]

Annual and Biennial HQS Inspections

Biennial Inspections:

DHC will perform HQS inspections biennially in accordance with HUD requirements. DHC may employ alternative inspection methods to meet this requirement.

DHC must conduct an initial HQS inspection before entering into a HAP contract, and interim HQS inspections, if a family or government official notifies DHC of a unit's failure to comply with HQS. DHC may not employ alternative inspection methods for these types of HQS inspections.
Alternative inspection methods upon which DHC may rely are inspections conducted under the following housing assistance programs:

- HOME Investment Partnerships (HOME)
- The Treasury Department's Low-Income Housing Tax Credit Program
- (LIHTC)HUD, including but not limited to inspections conducted by HUD's Real Estate Assessment Center (REAC)

Additionally, if the property is inspected under an alternative inspection method and the property received a "pass" score, DHC may rely on the inspection to demonstrate compliance with the biennial HQS inspection requirement.

If the property is inspected under an alternative inspection method and the property receives a "pass" score, DHC may rely on the inspection to demonstrate compliance with the biennial HQS inspection requirement.

If a property is inspected under an alternative inspection method and the property receives a ""failure"" score, DHC may not rely on that inspection to demonstrate compliancewith the biennial HQS inspection requirement.

If a property is inspected under an alternative inspection method that does not employ a pass/fail determination; for example, the LIHTC program, where deficiencies are simply noted, DHC must review the list of deficiencies to determine whether any citied deficiency would have resulted in a failure score under HQS. If no such deficiency exists, DHC may rely on the inspection to demonstrate compliance with the biennial HQS inspection requirements. If such a deficiency does exist, DHC may not rely on the inspection to demonstrate HQS compliance.

Under any circumstances described above in which DHC is prohibited from relying on an alternative inspection methodology, DHC will conduct an HQS inspection and follow

HQS procedures to remedy any noted deficiencies. The HQS inspection must take place within a reasonable period of time.

If DHC chooses to use an alternative inspection method, not described above, it must submit a certification to HUD local field office affirming, under penalty of perjury, that the standard provides the same or greater protection to occupants of dwelling units meeting such standard or requirement as would HQS.

Each unit under a HAP Contract must have an annual inspection at least biennially before the anniversary date of the last inspection.

## 8-2G. SPECIAL INSPECTIONS

**Complaint Inspections [CFR 982.405(c)]**

If at any time the participant or owner notifies DHC that the unit does not meet HQS, DHC will conduct an inspection. A complaint inspection is considered critical if the deficiency creates an immediate life-threatening circumstance such as a gas leak, structural damage, or carbon monoxide leak. If a complaint inspection is critical, DHC will conduct the inspection within 24 hours of notification if the complaint is received during normal business hours Monday through Friday 9:00 am to 4:00 pm.

DHC has the option to conduct a full inspection of the unit or to inspect only the complaint items in the unit. In either case, it is the responsibility of the owner and the participant to correct all deficient items within an allotted time frame. 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 inspection procedures will be followed. DHC reserves the right to terminate a HAP Contract if another agency inspects a unit and certifies it as unsafe for the participant and family, i.e., city or state law enforcement.

## 8-2 H. TIME STANDARDS FOR REPAIR

The property owner and the participant are both responsible for the unit meeting HQS requirements. The owner or the participant will be given time to correct the failed items, for which they are responsible, as follows:

- Within 24 hours of the inspection date for emergency deficiencies as defined in this chapter.
    - For deficiencies that are cited as emergency that are observed on a Friday, the 24-hour cut-off period shall end on the following Monday.
- Within 30 days of the inspection date for all other deficiencies.

- If a re-inspection does not occur within the timeframe specified by DHC the time to correct the deficiencies will automatically be extended an additional 10 business days.

## 8-2I. CONSEQUENCES IF OWNER IS RESPONSIBLE FOR HQS VIOLATIONS [24 CFR 982.405 & 453]

1. HAP (Rent) Abatement

When it has been determined that a unit fails to meet HQS, and the owner is responsible for correcting the violation(s), DHC may conduct a re-inspection to ensure violations are corrected within the time period specified by DHC or DHC may permit the unit to pass upon owner self-certification that correction of violations has been completed.

Owner/Property Management Inspection Certification:

If DHC determines from the inspection that the unit did not meet the HQS inspection requirements, DHC may allow the unit to pass upon the owner's self-certification that the HQS deficiency has been corrected. DHC may allow for owner self-certification when 5% or less of the units tied to the owner have been under HAP abatement due to HQS violations during the previous 12 months. 24 CFR 982.404(a)(3) requires that DHC "verifies" HQS repairs. To comply with this requirement DHC may elect to do a re-inspection to verify all HQS deficiencies have been corrected. However, a re-inspection is not necessary if DHC can obtain verification through other means. For example, DHC might accept an owner's self-certification that required repairs were completed and then verify that action at the next on-site inspection. Further, DHC might tie the verification process to the severity of the corrections needed and/or its experience with the owner and property. Acceptable owner self-certification documentation may include a DHC-approved self-certification form; a punch list for repair work; open and closed work orders for the specified repairs with the participant's signature; if there is no work order, payment records for maintenance work completed-with the management or owner's signature of acceptance; or other documents as may be required by DHC in order to confirm a repair necessary to complete the HQS process.

Owner self-certifications will not be permitted if a unit fails an HQS inspection in the following circumstances: initial inspections; complaint inspections; special inspections; project-based voucher unit inspections; or in cases when the deficiency requires mitigation/repair to occur within 24 hours. In these cases, DHC is required to conduct a follow-up inspection.

If an owner is permitted to self-certify that violations were corrected, DHC may accept proof of correction dated after June 3, 2011.

DHC may conduct a re-inspection immediately following the end of the correction period, or any DHC-approved extension. DHC shall notify the owner and the participant of the

date and time of a re-inspection. The owner will be allowed up to two re-inspections for violations to be corrected with no more than 4 total inspections for the unit.

If a re-inspection is scheduled and the inspector is unable to gain access to the unit for a re-inspection, HAP (rent) will be abated as of the first day of the month following the missed re-inspection date. HAP (rent) cannot begin again until the inspector is able to enter the unit and determine that the unit meets HQS standards. If the inspector has been unable to gain access at the time of a second attempt to conduct a re-inspection, both the participant and the owner will receive a Notice of Contract Termination.

If correction of violations is not completed within the time period specified, the HAP (rent) to the owner will be abated. DHC will notify the owner of its intent to abate rent and the abatement will be effective on the first day of the month following the expiration of the correction period, including any extensions, specified by DHC.

DHC may grant an extension in lieu of abatement in the following cases:

- DHC has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:
    - A repair cannot be completed because required parts or services are not available.
    - A repair cannot be completed because of weather conditions.
    - A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis but will not exceed 60 days except in the case of delays caused by weather conditions. DHC will consider DER extensions beginning with inspections conducted November 15 through April 15. Scheduling of re-inspection of the deficient items will begin as of May 1st depending upon weather conditions.

Under special circumstances at DHCs discretion, if an owner is permitted to self-certify that correction of violations was completed and if rent had been abated and the abatement was subsequently lifted based upon passing a re-inspection, DHC may refund the abated amount if the owner provides documentation to self-certify that the correction of the violations occurred before the date of the re-inspection.

No retroactive payments will be made to the owner by DHC for the period the HAP (rent) was abated.

During any abatement period, the family continues to be responsible for its share of the rent. The owner may not seek payment of abated amounts from the family and may not use the abatement as cause for eviction.

DHC will schedule inspection of abated units within 10 business days of the owner's notification that the violation(s) have been corrected.

### 2. HAP Contract Termination [24 CFR 982.403 - 405]

If the owner fails to correct the HQS violations within sixty (60) days of the beginning of the abatement period, the HAP Contract will be terminated. DHC will provide the owner and the family a 60-day notice of termination of the HAP Contract.

If correction of the violation(s) occurs before the effective date of the HAP Contract termination, the termination may be rescinded if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes the re-inspection. If the HAP Contract is terminated for violation of HQS, the HAP Contract cannot be reinstated.

## 8-2J. CONSEQUENCES IF PARTICIPANT IS RESPONSIBLE FOR HQS VIOLATIONS [CFR 982.404(B)]

If HQS violations are determined to be the responsibility of the participant, DHC will require the participant to correct the violations within 24 hours or 30 days, depending upon the nature of the violation. If the violation(s) is not corrected within the allotted time period, DHC will terminate assistance to the participant. The participant may request an informal hearing to contest the termination. The owner's HAP (rent) will not be abated for HQS violations that are the participant's responsibility. If the participant is responsible and corrections are not made, the HAP Contract will terminate when assistance is terminated.

The participant will be allowed up to two re-inspections for violations to be corrected with no more than 4 total inspections for the unit.

If the participant is not responsible for correcting violations but fails to allow access to the unit for a re-inspection after the owner fails the HQS inspection, DHC may terminate assistance to the participant as well as terminate the HAP Contract.

DHC will provide the owner and the family at least a 30-day notice of pending program termination of the participant's HCV assistance.

## 8-2 K. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

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 inspections in application of the HQS, as well as being a tool for training of inspectors.

HUD requires DHC or its designee to conduct quality control inspections of a sample of units. The units will be randomly selected from units inspected within the previous three (3) months. The selection will include units that have undergone annual and initial inspections, are located in a cross-section of neighborhoods, and incorporate a cross-section of inspectors.

## PART III: RENT REASONABLENESS [24 CFR 982.507]

### 8-3 A. OVERVIEW

No HAP Contract can be approved until DHC has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV Program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

1. DHC-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a DHC-owned unit, DHC must obtain the services of an independent entity to determine rent reasonableness in accordance with HCV Program requirements and to assist the family in negotiating the contract rent when the family requests assistance.

A DHC-owned unit is defined as a unit that is owned by DHC or by an entity substantially controlled by DHC.

The independent agency must communicate the results of the rent reasonableness determination to the family and DHC. The independent agency must be approved by HUD.

## 8-3 B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

1. Owner-Initiated Rent Determinations

DHC must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment. The owner and family first negotiate the rent for a unit. DHC, or the independent agency in the case of DHC-owned units, will assist the family with the negotiations upon request. At initial occupancy DHC must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term.

Subsequent requests for rent adjustments may be done no more frequently than annually and must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected. Rent increases may be requested at least 60 days before the effective date of the participant's annual re-examination or 60 days before the effective lease renewal.

2. DHC and HUD-Initiated Rent Reasonableness Determinations

HUD requires DHC to make a determination of rent reasonableness, even if the owner has not requested a change, if there is a 5 percent decrease in the Fair Market Rent (FMR) that goes into effect at least 60 days before the contract anniversary date as compared with the FMR in effect one year before the contract anniversary. HUD also may direct DHC to make a determination at any other time. DHC also may decide that a new determination of rent reasonableness is needed at any time.

## 8-3C. HOW COMPARABILITY IS ESTABLISHED

DHC 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 Housing Programs.

At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or re-determined by DHC.

The owner will be advised that by accepting each monthly HAP 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 DHC information on rents charged by the owner for other units in the premises or elsewhere. DHC will only request information on the owner's units elsewhere if DHC has cause to believe that the owner has a tendency to charge higher rents to HCV Program participants or if needed for rent reasonableness comparable.

The data for other unassisted units will be gathered from, newspapers, the Internet, Realtors, professional associations, inquiries of owners, market surveys, and other available sources. The market areas for rent reasonableness are zip codes within DHC'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

1. Rent Reasonableness Methodology

In determining the reasonableness of rents for units located in a multi-family project that is not substantially assisted, DHC may base its determination on the rents charged for three (3) comparable unassisted units identified by the owner on the RFTA. In such cases, DHC does not have to obtain additional rent comparable in other multi-family housing in the area.

In any determination about the reasonableness of rent for a particular unit, a prospective tenant should consider factors such as location, quality, size, type, age, amenities, housing services, maintenance, and utilities to be supplied by the owner.

Rent reasonableness determinations will be performed in a documented, reasonable, and consistent manner. It is not, however, necessary, or cost-effective to try to quantifiably document or separately evaluate each of these criteria. To the extent possible, rent comparability will be based on rents paid for similar units in the same general location that are also generally similar in terms of the overall quality of housing services provided. Any procedures or documentation used will reflect this approach.

DHC’s rent reasonableness determinations for multi-family properties shall be as outlined above. The rent reasonableness determinations for single family or other units that are not part of a multi-family housing complex shall include 2 or 3 comparable units. The unit and the comparable shall be maintained in the file.

DHC or its designee will utilize a database that includes data on unassisted units for use by staff in making rent reasonableness determinations.

2. Units that Must Not be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236, and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME, or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance. If a unit to be assisted is located in a complex that is regulated by a government entity such as HUD, IRS, etc.; then DHC shall use the rent determined by the government entity as being reasonable.

In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families. If the owner of such a property intends to charge lower rents to the non-voucher tenants living in the property at the time of conversion, the owner must provide written notice to DHC and a list of the covered families, a description of the concession, the duration of the lower rents or concessions, the units in which the families are residing, and copies of the families' leases.

In the case of a multi-family property undergoing a Housing Conversion Action, the rents charged to those families that choose to remain at the property with their HCV assistance must not exceed the rents charged for those existing tenants that do not qualify to accept the HCV assistance, even if the owner is charging new tenants higher rents. Owners of multi-family properties that underwent a Housing Conversion Action before the issuance of Notice PIH 2010-18 may also provide a notice to DHC at the time of a subsequent rent increase for voucher families, identifying families that resided in the property on the date of the eligibility event that did not receive a voucher. The owner must provide the same information and documentation that is required for new conversion actions, including evidence that the covered families resided in the property on the date of the eligibility event.

DHC, upon verifying the information submitted by the owner, will then exclude those units from future rent reasonableness determinations for the duration of the lower rents or concessions.

3. Rents Charged for Other Units on the Premises

The RFTA requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises. DHC will use the RFTA as a method to determine rent reasonable for multi-family units in accordance with HUD's PIH Notice 2003-12 and the RFTA signed by the owner.

By accepting DHC's payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do

so, the owner must give DHC information regarding rents charged for other units on the premises.

# CHAPTER 9

# GENERAL LEASING POLICIES

## 9-1 A. INTRODUCTION

This chapter covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract. For DHC to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) Contract with the owner of a dwelling unit, DHC will determine that all the following HCV Program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by DHC and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by DHC, with no conflicts of interest [24 CFR 982.306]

## 9-1B. TENANT SCREENING

DHC has no liability or responsibility to the owner or other persons for the family’s behavior or suitability for tenancy [24 CFR 982.307(a)(1)]. The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before DHC approval of the tenancy, DHC will inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)].

Upon receipt of a written request from the owner, DHC will provide the owner with the family's current and prior address as shown in the DHC records, and the name and address, if known to DHC, of the landlord at the family's current and prior address. [24 CFR 982.307 (b) (1)]. DHC is permitted, but not required, to offer the owner other information in DHC’s possession about the family’s tenancy [24 CFR 982.307(b)(2)]. DHC’s policy on providing information to the owner must be included in the family’s briefing packet [24 CFR 982.307(b)(3)].

## 9-1 C. REQUESTING TENANCY APPROVAL [Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the HCV Program. Once a family finds a suitable unit and the owner is willing to lease the unit under the HCV Program, the

owner and the family must request DHC to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to DHC:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for DHC to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent. Owners must certify that they are not the parent, child, grandparent, grandchild, sister, orbrother of any member of the family, unless DHC has granted a request for reasonable accommodation for a person with disabilities who is a member of the participant's household.

For units constructed before 1978, owners must either:

- Certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or
- Attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

The RFTA must be signed by both the participant and the owner. The participant or representatives may submit the original RFTA in person, by mail, via fax, or electronically. DHC will not process, more than one (1) RFTA at a time. Incomplete RFTAs will not be processed.

Once the participant submits the RFTA, DHC will review the RFTA for completeness. If the RFTA is incomplete, including lack of signature by participant, owner, or both, and if the dwelling lease is not submitted with the RFTA, the RFTA will not be processed.

Missing information and/or missing documents will be accepted as hard copies, in-person, by mail, via fax, or electronically. DHC will not accept missing information over the phone.

When the participant submits the RFTA and proposed lease, DHC will review the terms of the RFTA for consistency with the terms of the proposed lease. If the terms of the RFTA are not consistent with the terms of the proposed lease, DHC will notify the participant and the owner of the discrepancies.

Corrections to the terms of the RFTA and/or the proposed lease will be accepted in-person, by mail, via fax, or electronically. DHC will not accept corrections by phone. Because of the time sensitive nature of the tenancy approval process, DHC will attempt to communicate with the owner and participant by phone or email. DHC will use mail when the parties cannot be reached by phone, or email.

1. Owner Participation

DHC does not formally approve an owner to participate in the HCV Program. However, there are a number of criteria on which DHC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV Program [24 CFR 982.306(e)]. See Chapter 13 for a full discussion of owner qualification to participate in the HCV Program.

2. Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV Program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in DHC's jurisdiction. This includes the dwelling unit they are currently occupying.

3. Ineligible Units [24 CFR 982.352(a)]

DHC may not assist a unit under the HCV Program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); a nursing home, a board and care home, or a facility providing continual psychiatric, medical, or nursing services; a college or other school dormitory; a unit on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

4. DHC-Owned Units [24 CFR 982.352(b)]

DHC does have eligible DHC-owned units available for leasing. However, units designated as public housing units are not eligible.

5. Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, DHC to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space, where the family owns the manufactured home and leases only the space, cooperative housing, and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that DHC has chosen to allow.

The regulations do require DHC to permit use of any special housing type if needed as a reasonable accommodation so that the HCV Program is readily accessible to and usable by persons with disabilities.

6. Duplicative Assistance [24 CFR 982.352(c)]

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following other forms of housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance.
- Other Section 8 assistance (including other tenant-based assistance).
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974).
- Section 101 rent supplements.
- Section 236 rental assistance payments.
- Tenant-based assistance under the HOME Program.
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration).
- Any local or State rent subsidy.
- Section 202 supportive housing for the elderly.
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD.

For this purpose, housing subsidy does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

7. Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]

In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD's HQS and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS, as well as the process for HQS inspection at initial lease-up.

8. Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. See Chapter 5 for a full discussion of subsidy standards.

9. Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

10. Rent Burden [24 CFR 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

## 9-1D. LEASE AND TENANCY ADDENDUM

The family and the owner must execute and enter into a written dwelling lease for the assisted unit. This written lease is a contract between the tenant family and the owner; DHC is not a party to this contract. The tenant must have legal capacity to enter a lease under State and local law. Legal capacity means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

1. Lease Form and Tenancy Addendum [24 CFR 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease for the assisted family must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP Contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease form, for use with the assisted family. The Tenancy Addendum includes the tenancy requirements for the HCV Program. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

DHC does not provide a model or standard dwelling lease for owners to use in the HCV Program.

2. Lease Information [24 CFR 982.308(d)]

The assisted dwelling lease must contain all the required information as listed below:

- The names of the owner and the tenant and all household members

- The unit rented (address, apartment number, and any other information needed to identify the contract unit).
- The term of the lease (initial term and any provisions for renewal).
- The amount of the monthly rent to owner.
- A specification of what utilities and appliances are to be supplied by the owner; and Utilities and appliances to be supplied by the family.
- What utilities and appliances are to be supplied by the family?

3. Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP Contract.

DHC will approve an initial lease term of less than one (1) year in special circumstances only but will not approve an initial lease term of less than six months. During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309]. Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be in the dwelling lease if they exist.

4. Security Deposit [24 CFR 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. Michigan law requires that the security deposit be no more than one and one-half times the rental amount.

5. Separate Non-Lease Agreements between Owner and Tenant

The owner may not have two simultaneous separate leases for the unit being occupied by the tenant. Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus DHC's HAP to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. Owners and families may execute separate and reasonable cost, non-lease agreements for services, appliances, other than range and refrigerator, and other items that are not included in the lease. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in

the dwelling unit and where the family has the sole option of not utilizing the item, appliance, or service, may be included in a separate non-lease agreement between theowner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

6. DHC Review of Lease

DHC will review the dwelling lease for compliance with applicable requirements.

If the dwelling lease is incomplete or incorrect, DHC will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, or by mail. DHC will not accept missing and corrected information over the phone.

Because the initial leasing process is time sensitive, DHC will attempt to communicate with the owner and family by phone, or email. DHC will use mail when the parties cannot be reached by phone, fax, or email.

DHC will not review the owner's lease for compliance with state/local law, unless DHC has reason to believe that the lease does not comply with HCV Program requirements.

## 9-1 E. TENANCY APPROVAL [24 CFR 982.305]

After receiving the family's RFTA with the proposed dwelling lease, DHC will promptly notify the family and owner whether the assisted tenancy is approved. Before approving the assisted tenancy and execution of a HAP Contract, DHC will ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions are eligible units' determinations:

- The share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)].
- The rent to be charged by the owner for the unit is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family

*1. Pre-Contract Execution*

DHC will complete its pre-contract determinations within 20 business days of receiving all required information. DHC will determine whether:

1. The owner is an eligible owner, not disapproved by DHC, with no conflicts of interest [24 CFR 982.306].
2. The lease offered by the owner is approvable and includes the required Tenancy Addendum; and
3. The family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 CFR 982.305(b)].

If the terms of the RFTA/proposed lease are changed for any reason, including but not limited to negotiation with DHC, DHC will obtain written confirmation of the negotiated terms from the owner. Corrections to the RFTA and proposed lease will only be accepted as hard copies in-person or by mail. DHC will not accept corrections over the phone.

If DHC determines the tenancy is denied, the owner and the family will be notified in writing.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher. If the tenancy is not approvable due to rent affordability, including rent burden and rent reasonableness, DHC will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

## 9-1F. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP Contract is a written agreement between DHC, and the owner of the dwelling unit occupied by an HCV assisted family. Under the HAP Contract, DHC agrees to make HAP to the owner on behalf of a specific family occupying a specific unit and obliges theowner to comply with all HCV Program requirements. The HAP Contract format is prescribed by HUD.

If DHC has given approval of the assisted tenancy for the family, the owner and DHC execute the HAP Contract. The term of the HAP Contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

DHC may not pay any HAP to the owner until the HAP Contract has been executed. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, DHC will pay HAP after execution of the HAP Contract, in accordance with the terms of the HAP Contract, to cover the portion of the lease term before execution of the HAP Contract up to a maximum of 60 days. Any HAP Contract executed after the 60-day period is void and DHC may not pay any HAP to the owner.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to DHC. The owner and DHC will execute the HAP Contract. DHC will not execute the HAP Contract until the owner has submitted all required documents to DHC. DHC will ensure the owner receives a copy of the executed HAP Contract. See Chapter 13 for a discussion of the HAP contract and contract provisions.

## 9-1 G. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give DHC a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

DHC approval of tenancy and execution of a new HAP Contract are not required for changes in the lease. However, under certain circumstances, HCV assistance in the unit shall not be continued unless DHC has approved a new tenancy in accordance with HCV Program requirements and has executed a new HAP Contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.
- Changes in lease provisions governing the term of the lease; or
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new RFTA along with a new dwelling lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of rent, the owner must notify DHC of any changes in the amount of the rent to owner at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. DHC will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner may either reduce the requested rent increase, keep the existing rental rate, or give the family notice in accordance with the terms of the lease. No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

Where the owner is requesting a rent increase, DHC will determine whether the requested increase is reasonable within 60 business days of receiving the request from the owner. The owner will be notified of the determination in writing.
Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies DHC of the rent change or on the date specified by the owner, whichever is later.

# CHAPTER 10

# MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

## INTRODUCTION

One of the key features of the HCV Program is the mobility of the assistance. The regulations at 24 CFR 982.353 provide that HCV participants may choose a unit that meets HCV Program requirements anywhere in the United States, provided that a PHA administering the tenant-based program has jurisdiction over the area in which the unit is located. Moves with continued assistance can occur both inside and outside of DHC's jurisdiction.

**Part I: Moving with Continued Assistance.** This part covers the general rules that apply to all moves by a family assisted under the HCV program, whether the family moves to another unit within DHC's jurisdiction or to a unit outside DHC's jurisdiction under portability.

**Part II: Portability.** This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into DHC's jurisdiction. This part also covers the special responsibilities that DHC has under portability regulations and procedures.

## PART I: MOVING WITH CONTINUED ASSISTANCE

## 10-1A. ALLOWABLE MOVES

HUD lists five (5) regulatory conditions and the statutory condition under the Violence Against Women Act (VAWA) under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in 24 CFR 982.314.

1. Regulatory Conditions to Move

A family may move to a new unit if:

- The assisted lease for the old unit has terminated. This includes a termination because:
  - DHC has terminated the HAP Contract for the owner's breach; or
  - The owner and tenant mutually agree to terminate the lease.
- The owner has given the tenant 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 tenant. The family must give DHC a copy of any owner eviction notice.

- The tenant has given notice of lease termination, if the tenant has a right to terminate the lease on notice to the owner, for owner breach or otherwise.
- The family has a right to terminate the lease on notice to the owner, for the owner's breach or otherwise, and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give DHC a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

2. DHC Requirements for Moves

Prior to any move request being approved, if a family's annual review is six months or older at the time of the anticipated move, the family must complete an income recertification.

If the family and the owner mutually agree to terminate the lease, the family must give DHC at least 30 days' notice of the intent to move on a form provided by DHC. DHC may approve exceptions for emergencies, VAWA or other concerns requiring urgent attention.

If the owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)], the family must give DHC a copy of any owner eviction notice [24 CFR 982.551(g)] within 10 business days of its receipt.

DHC will stop paying HAP effective the last day of the month when an intent to vacate is provided in accordance with DHC requirements. The notice of intent to vacate must be signed by all parties. If the participant is in the compliance window (i.e., under termination, has requested a hearing, etc.) at the time the notice of intent to vacate is submitted, a voucher will not be issued until the compliance issues have been resolved.

If DHC determines the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition, DHC will issue the family a new voucher and the family will find an acceptable unit as soon as possible. If an acceptable unit is available for the family, DHC will terminate the HAP Contract for the family's old unit in accordance with the HAP Contract terms and must notify both the family and the owner of the termination. The HAP Contract will terminate at the end of the calendar month that follows the calendar month in which DHC gives notice to the owner. [24 CFR 982.403(a) and (c)]

3. VAWA Condition to Move

VAWA provides that if otherwise in good standing, "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based

assistance program if the family has complied with all other obligations of the section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault , engaged in by a member of the participant's household or any affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit" [24 CFR 982.353(b)].

4. Moves

A participant family may move one or more times with continued assistance under the HCV program, either inside DHC's jurisdiction, or under the portability procedures. (See § 982.353)

## 10-1B. RESTRICTIONS ON MOVES

1. Denial of Moves

DHC may only deny a family's request to move if it has grounds to do so under the program regulations, which are as follows:

- DHC has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
- The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982.353(c)).
- The family is an applicant and is not income-eligible (see 24 CFR 982.353(d)(1)) in the area in which they wish to initially lease a unit.
- DHC has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2), and the requested move does not comply with those policies.
- DHC does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

2. VAWA

If otherwise in good standing, VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations, but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, engaged in by a member of a participant's household or any affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

3. Denying Family Requests to Move Due to Insufficient Funding

DHC may only deny a request to move to a higher cost unit within its jurisdiction or to higher cost area in accordance with 24 CFR 982.314(e)(1) if DHC would be unable to avoid terminations of HCV assistance for current participants during the calendar year in order to remain within its budgetary allocation, including any available HAP reserves. DHC will provide written notification to the local HUD Office when it determines it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

- A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must **not** include vouchers that have been issued but are not yet under contract.
- A statement certifying that DHC has ceased issuing vouchers and will not admit families from its waiting list while the limitation on moves to a higher cost unit is in place.
- A copy of DHC's policy stating how it will address families who have been denied moves. The requirements of the policy are described below.

For moves within DHC's jurisdiction, a "higher cost unit" is defined as a unit for which DHC would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

For portability moves, a "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). Before denying the family's request to move due to insufficient funding, DHC will contact the receiving PHA and confirm via email or other confirmed delivery method whether the receiving PHA will administer or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. Once the receiving PHA makes the commitment to absorb the voucher, it cannot reverse its decision. If the receiving PHA is willing to absorb the family, there are no grounds for DHC to deny the portability move under 24 CFR 982.314(e)(1).

DHC may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount therefore not resulting in an increased cost to DHC.

DHC **may not** deny a requested move due to insufficient funding under 24 CFR 982.314(e)(1) simply because the family wishes to move to a higher cost unit within DHC's jurisdiction or to a higher cost area.

DHC **may not** deny requests to move, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g., the

receiving PHA issues a 2- bedroom voucher to a family that received a 3-bedroom voucher from DHC).

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, DHC may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program.

Vouchers that have been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and DHC is legally obligated to make HAP payments.

In any case where DHC denies a family's request to move in accordance with 24 CFR 982.314(e)(1), DHC will be able to demonstrate how it determined that sufficient funding was unavailable when it denied the family's request to move.

4. Grounds for Denial or Termination of Assistance

DHC will deny a family permission to move because DHC has grounds to deny or terminate the family's assistance [24 CFR 982.314(e)(2)] DHC will allow exceptions foremergencies, VAWA or other concerns requiring urgent attention.

If DHC has grounds for denying or terminating a family's assistance, DHC will act on those grounds in accordance with the regulations and policies set forth in Chapter12 DHC will grant a family permission to move if DHC has no grounds to deny or terminate the family's assistance for HCV program violations, (a thorough definition of program violations can be found in Chapter 12.

DHC will deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted, a move must be allowed under VAWA.

5. Frequency/Timing of Moves

Families will not be permitted to move more than once in a 12-month period unless required to do so by DHC to meet HQS or other HCV program standards or pursuant to VAWA. This policy applies to all assisted families residing in DHC's jurisdiction.

Families will not be permitted to move if the family has moved or been issued a voucher within the last six (6) months.

Families will not be permitted to move during the family's initial lease term. This policy applies to moves within DHC's jurisdiction or outside it under portability.

6. Exceptions to Restrictions on Moves

The Executive Director or designee may make exceptions to any restrictions set forth in this Part I on a case-by-case basis for the following reasons:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection program), or
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.
- To provide a reasonable accommodation of a disabled family member.

## 10-1 C. MOVING PROCESS

1. Notification

If a family wishes to move to a new unit, the family must notify DHC and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside DHC's jurisdiction under portability, the notice to DHC will specify the area where the family wishes to move [24 CFR 982.314(d)(2), Notice PIH 2011-03]. The notice must be in writing [24 CFR 982.5] and on a form provided by DHC.

Families must give at least a 30-calendar day Notice of Intent to Vacate before the family moves. HAP will end on the last date of the month of the move.

2. Approval

Upon receipt of a family's notification that it wishes to move, DHC will determine whether the family is in good standing in accordance with the regulations and policies set forth in this chapter.

A participant will be considered in good standing if the following conditions have been reviewed and verified by DHC:

- The participant is current on their payments toward any DHC repayment agreement.
- The family is not violating any family obligation under the voucher that may result in program termination.
- Good standing with the landlord is determined by DHC contacting the landlord based on statements made on the Intent to Vacate.

Families that wish to move must contact their Housing Specialist. If the family is eligible to move, the Housing Specialist will assign the date and time for the family to attend a transfer briefing as required. DHC will notify the family in writing of its determination within 15 business days following receipt of the family's notification.

If the notice is returned by the post office, a second letter will be mailed to the address of record. If returned by the post office, a pending program termination notice will be mailed to the family as the family may have moved without authorization.

3. Re-examination of Family Income and Composition

For families approved to move to a new unit within DHC's jurisdiction, DHC may perform a new annual re-examination in accordance with the policies set forth in Chapter 11.

For families moving into or families approved to move out of DHC's jurisdiction under portability, DHC will follow the policies set forth in Part II of this chapter.

4. Voucher Issuance and Briefing

A transfer briefing is required for families approved to move to a new unit within DHC's jurisdiction. DHC will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration.

If the family cancels the Intent to Vacate notice, with the owner's written approval before the contract expiration date, the voucher will be expired, and the family may remain in itscurrent unit with continued HCV assistance

If the family choses to cancel the Intent to Vacate after the contract expiration date, a Request for Tenancy Approval must be submitted on that unit, the unit must be inspected, and a new contract must be executed. Otherwise, the family may lose its HCV assistance.

For families moving into or families approved to move out of DHC's jurisdiction under portability, DHC will follow the policies set forth in Part II of this chapter.

*5.* Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, DHC may not make any HAP to the owner for any month after the month the family moves out.

If a family moves from an assisted unit with continued HCV assistance, the term of the assisted lease for the new assisted unit should begin after the unit passes HQS inspection but no sooner than the contract end date of the previous unit.

The Executive Director or designee may make exceptions to this requirement on a case-by-case basis to minimize family hardship.

## PART II: PORTABILITY

## 10-2 A. OVERVIEW

Within the limitations of the regulations and this Admin Plan, a participant family or an applicant family that has been issued a voucher has the right to use HCV assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering an HCV Program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the initial PHA. The second is called the receiving PHA.

Program regulations covering where a family may move and the responsibilities of the initial PHA and the receiving PHA are found at 24 CFR 982.353 through 982.355.

## 10-2 B. INITIAL AND RECEIVING PHAs

When a family moves under portability, the receiving PHA may choose the option of:

- Administering the family's voucher for the initial PHA; or
- Absorbing the family into its own HCV Program.

Under the first option, the receiving PHA bills the initial PHA for the family's HAP payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance out of its own HCV Program funds, and the initial PHA has no further relationship with the family.

A PHA commonly acts as the initial PHA for some families and as the receiving PHA for others. Each role involves different responsibilities. DHC will follow the rules and policies in this chapter when it is acting as the initial or the receiving PHA for a family.

1. Initial PHA Responsibilities - Contacting the Receiving PHA

When a family wishes to move under portability, the family must inform the initial PHA of the area to which the family wishes to move. In the case of an applicant family, the initial PHA must determine if the family is income eligible in the area to which the family wishes to move. If the family is not income eligible in the area to which the family wishes to move, the initial PHA must inform the applicant family they may not move to the area in question and receive HCV assistance. Income eligibility is not re-determined when a participant family exercises portability.

The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will bill or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the family's request. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the portability request.

Once the portability request is approved, the initial PHA will issue the family a voucher and must contact the receiving PHA on the family's behalf. The initial PHA must

promptly notify the receiving PHA to expect the incoming family (see section 24 CFR 982.355(c)(2)). This means the initial PHA contacts the receiving PHA on the family's behalf, typically by telephone, fax, or email.

Simply referring the family to HUD or to a website for information on the receiving PHA's address does not fulfill the initial PHA's responsibilities under the HCV Program regulations. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA, e.g., the name and telephone number of the staff person responsible for working with incoming ported families and any procedures related to appointments for voucher issuance the receiving PHA has shared with the initial PHA. The Form HUD-2665, Family Portability Information, contains a line that the initial PHA will use to identify the receiving PHA.

2. Initial PHA Responsibilities - Part I of the Form HUD-52665

Once the family is approved to move using portability, the initial PHA will complete Part I of the Form HUD-52665 and mail or fax it to the receiving PHA, along with a copy of the family's voucher issued by the initial PHA, a current copy of Form HUD-50058, and copies of the income verification supporting the form. In the case of an applicant family, the initial PHA has not completed the HUD-50058 and submitted the information to HUD because the family is not yet a new admission. However, the initial PHA must provide the family information and income information to the receiving PHA in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA.)

Part I of the Form HUD-52665 provides the date by which the initial billing notice provided by the receiving PHA must be received by the initial PHA. The initial billing submission must be completed and mailed by the receiving PHA within15 days of the HAP Contract execution but no later than 60 days following the expiration date of the family voucher issued by the initial PHA.

If the initial PHA has not received a billing notice by the deadline and intends not to accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA informs the receiving PHA that it will not honor a late billing, the initial PHA is not required to honor any billing notice received after the billing deadline. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it should return the late Form HUD-52665 to the receiving PHA, and the receiving PHA must absorb the family.

In certain circumstances, HUD may require the initial PHA to accept the late billing, such as where the receiving PHA does not have the funds to support the voucher and the family would be terminated if the initial PHA refused to accept the late billing. The initial PHA may contact HUD to report the receiving PHA's failure to submit the bill in accordance with these procedures. HUD may act to address the receiving PHA's failure to do so, which may include reducing the receiving PHA's administrative fee. Additionally, HUD may subsequently transfer units and funding from the receiving PHA

to the initial PHA when it is feasible, if the initial PHA was required to accept the late billing.

3. Receiving PHA Responsibilities - Processing Responsibilities

The receiving PHA must respond by email or other confirmed delivery method to the initial PHA's inquiry to determine if the family's voucher will be billed or absorbed. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. If the receiving PHA notifies the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date. This prevents placing a financial hardship on the initial PHA and putting a family that has already terminated the lease and vacated their assisted unit and moved to the new jurisdiction at risk of losing their assistance.

After receiving the Form HUD-52665 and supporting documentation from the initial PHA, the receiving PHA must promptly re-issue a voucher to the family for its search in the receiving PHA jurisdiction, the term of which may not expire before the expiration date of the initial PHA's voucher. HUD expects the receiving PHA to process the family's paperwork and issue the incoming family a voucher for its jurisdiction within two weeks of receiving the HUD- 52665 and supporting documentation, provided the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

A receiving PHA should not process the family if the initial PHA's voucher has already expired when it receives the paperwork from the initial PHA but should refer the family back to the initial PHA. The initial PHA would have to decide to extend the term of its voucher and the billing deadline before the receiving PHA would process the portability move in such an instance.

The receiving PHA does not re-determine income eligibility for a portable family that was already receiving HCV assistance and may not delay the family's housing search in issuing the voucher. DHC will conduct a criminal history background and review the Sex Offender Registry for all adult members of the household on all families porting in. and for families that have already received HCV payments from the initial PHA, DHC may not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed.

However, the receiving PHA may take subsequent action, e.g., recalculating the HAP payment based on updated income information; terminating the family's participation in the HCV Program due to criminal background or failing to disclose necessary information, against the family based on the results.

In the case of an applicant family, the receiving PHA may delay issuing or otherwise delay approval of a unit only if the re-examination is necessary to determine income eligibility. For example, if the applicant family initially reported they had no earned income, but they are moving because they obtained new employment, the receiving

PHA may need to conduct a re-examination of income to ensure the family is income eligible in the receiving PHA's jurisdiction.

The receiving PHA may always delay approval of the unit or issuance of the voucher if the family refuses to comply with the receiving PHA's procedures**.** In any case where the receiving PHA is refusing to process or provide assistance under the portability procedures, the family must be given the opportunity for an informal review or hearing in accordance with 24 CFR 982.554 or 982.555.

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher, either when it initially issues its own voucher or by subsequently extending its own voucher's term. However, if the receiving PHA provides the family with search time beyond the expiration date of the initial PHA's voucher, it must inform the initial PHA of the extension and should bear in mind the billing deadline that is based on the expiration date of the voucher issued by the initial PHA.

Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a Request for Tenancy Approval, execute a HAP Contract, and cover the anticipated delivery time, if the receiving PHA is not submitting the billing information by fax or email, so that it will be received by the initial PHA by the deadline date.

If an incoming ported family ultimately decides not to lease in the jurisdiction of the receiving PHA, but instead wishes to return to the initial PHA or wishes to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extensions of search time provided by the receiving PHA voucher are only valid for the family's search in the receiving PHA jurisdiction. Any extensions of the initial PHA's voucher necessary to allow the family additional search-time to return to the initial PHA's jurisdiction or to move to another jurisdiction would be at the discretion of the initial PHA. The receiving PHA may absorb the family into its own program once the HAP Contract is executed on behalf of the family by the receiving PHA, assuming it has funding available under its ACC to do so, and such a decision will not result in over-leasing for the calendar year.

The receiving PHA may also absorb a ported family assisted through a billing arrangement by terminating the billing arrangement with the initial PHA. In such a case, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment. The receiving PHA must specify the effective date of the absorption of the family.

Although a receiving PHA notifies THE INITIAL PHA of its intent to absorb an incoming family early in the portability process, the receiving PHA does not technically "absorb" a family into its HCV Program until the receiving PHA executes a HAP Contract on behalf of the family in the receiving PHA jurisdiction. PHAs may not engage in sham or fake

portability paperwork exercises in an attempt to address their utilization or leasing problems. If the family is not placed under HAP Contract in the receiving PHA jurisdiction, the receiving PHA cannot absorb the family.

## 10-2C. DHC IN THE INITIAL PHA ROLE

1. Allowable Moves under Portability

A family may move with HCV assistance only to an area where there is at least one PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one PHA in the area, the initial PHA may choose the receiving PHA [24 CFR 982.355(b)].

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the initial PHA's jurisdiction under portability. The initial PHA, in accordance with HUD regulations and the initial PHA's policy, determines whether a family qualifies.

2. Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the initial PHA discretion to deny a portability move by an applicant family for the same reasons that it may deny any move by a participant family:

- DHC has grounds to deny the move because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553.
- The family is a non-resident applicant, or the family was a non-resident applicant that has not yet been assisted in the initial PHA jurisdiction for twelve months since being admitted to the program (see 24 CFR 982.353(c)).
- The family is an applicant and is not income-eligible (see 24 CFR 982.353(d)(1)) in the area in which they wish to initially lease a unit.
- DHC has established policies on the timing and frequency of moves in accordance with 24 CFR 982.314(c)(2), and the requested move does not comply with those policies.
- DHC does not have sufficient funding for continued assistance to support the move in accordance with 24 CFR 982.314(e)(1).

3. VAWA

VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, stalking, or sexual assault, engaged in by an affiliated individual and who reasonably believed he or she was imminently threatened by harm from further violence if they remained in the unit.

4. Frequency/Timing of Moves

If the head of household, the co-head or the spouse of an applicant family did not have a domicile (legal residence) in DHC's jurisdiction at the time of the applicant family's application for HCV assistance was submitted, the family must live in DHC's jurisdiction with HCV assistance for at least 12 months before requesting portability.

DHC will consider exceptions to this policy for purposes of reasonable accommodation. However, any exception to this policy is subject to the approval of the receiving PHA [24 CFR 982.353(c)(3)].

5. Denying Family Requests to Move Due to Insufficient Funding

DHC may only deny a request to move to a higher cost unit within its jurisdiction or to higher cost area in accordance with 24 CFR 982.314(e)(1) if DHC would be unable to avoid terminations of HCV assistance for current participants during the calendar year in order to remain within its budgetary allocation, including any available HAP reserves. DHC will provide written notification to the local HUD Office when it determines it is necessary to deny moves to a higher cost unit based on insufficient funding. The notification must include the following documentation:

- A financial analysis that demonstrates insufficient funds are projected to meet the current calendar year projection of expenses. The projection must **not** include vouchers that have been issued but are not yet under contract.
- A statement certifying that DHC has ceased issuing vouchers and will not admit families from its waiting list while the limitation on moves to a higher cost unit is in place.
- A copy of DHC's policy stating how it will address families who have been denied moves. The requirements of the policy are described below.

For moves within DHC's jurisdiction, a "higher cost unit" is defined as a unit for which DHC would have to pay a higher subsidy amount due to an increase in the gross rent for the new unit.

For portability moves, a "higher cost area" is defined as an area where a higher subsidy amount will be paid for a family because of higher payment standard amounts or "more generous" subsidy standards (e.g., the receiving PHA issues a 3-bedroom voucher to a family that received a 2-bedroom voucher from the initial PHA). Before denying the family's request to move due to insufficient funding, DHC will contact the receiving PHA and confirm via email or other confirmed delivery method whether the receiving PHA will administer or absorb the family's voucher. HUD encourages PHAs to communicate this information via email in order to expedite the families' requests. Once the receiving PHA makes the commitment to absorb the voucher, it cannot reverse its decision. If the receiving PHA is willing to absorb the family, there are no grounds for DHC to deny the portability move under 24 CFR 982.314(e)(1).

DHC may also take into consideration any reported changes in the family's income or composition that may result in a decreased subsidy amount therefore not resulting in an increased cost to DHC.

DHC **may not** deny a requested move due to insufficient funding under 24 CFR 982.314(e)(1) simply because the family wishes to move to a higher cost unit within DHC's jurisdiction or to a higher cost area. However, DHC may deny if DHC does not have sufficient funding for continued assistance.

DHC **may not** deny requests to move, including portability moves, if the subsidy for the new unit is equal to or less than the current subsidy being paid for the family or if the area the family has selected is a lower cost area. A "lower cost area" is defined as an area where the subsidy amount is equal to or lesser than the current subsidy paid because of lower payment standards or less generous subsidy standards (e.g., the receiving PHA issues a 2- bedroom voucher to a family that received a 3-bedroom voucher from DHC).

In projecting whether there is sufficient funding available for the remainder of the calendar year in order to approve the move, DHC may make reasonable estimates to factor in conditions such as pending rent increases and the attrition rate for families leaving the program.

Vouchers that have been issued to those on the waiting list cannot be considered an expense for purposes of determining whether to deny a move due to insufficient funding until such time that HAP contracts are executed and DHC is legally obligated to make HAP payments.

In any case where DHC denies a family's request to move in accordance with 24 CFR 982.314(e)(1), DHC will be able to demonstrate how it determined that sufficient funding was unavailable when it denied the family's request to move.

6. Grounds for Denial or Termination of Assistance

DHC may deny a family permission to move because DHC has grounds to deny or terminate the family's assistance [24 CFR 982.314(e)(2)].

If DHC has grounds for denying or terminating a family's assistance, DHC will act on those grounds in accordance with the regulations and policies set forth in Chapter 12.

DHC will grant a family permission to move if DHC has no grounds to deny or terminate the family's assistance for HCV program violations, a thorough definition of program violations can be found in Chapter 12.

DHC will deny a family's request to move if the family has moved out of its assisted unit in violation of the lease. However, as previously noted, a move must be allowed under VAWA

7. Exceptions to Restrictions on Moves

The Executive Director or designee may make exceptions to any restrictions set forth in this Part II on a case-by-case basis for the following reasons:

- To protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, and witness protection program), or
- To accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.
- To provide a reasonable accommodation of a disabled family member.

8. Participant Families

DHC will not provide portability assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b)]

9. Determining Income Eligibility

**a. Applicant Families**

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2011-03].

DHC is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, DHC will inform the family that it may not move there and receive voucher assistance [Notice PIH 2011-03].

Reverification of family income and composition by DHC is required for an applicant family.

**b. Participant Families**

The income eligibility of a participant family will not be redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2), 24 CFR 982.355(c)(1)].

For a participant family approved to move out of its jurisdiction under portability, DHC will conduct a re-examination of family income and composition based upon DHCs policy for annual re-examination at the time of the move.

10. Briefing

DHC may require a participant family wishing to move outside DHC's jurisdiction under portability to attend a briefing. However, DHC will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program. DHC will provide the name, address, and phone of the contact for the PHA in the jurisdiction to which they wish to move. DHC will advise the family which PHA's policies and procedures that they will be under, including subsidy standards and voucher extension policies.

11. Voucher Issuance and Term

DHC will issue a new voucher to an applicant family or a participant family within 15 business days of DHC's written approval to move.

The initial term of the voucher will be 60 days.

12. Voucher Extensions and Expiration

DHC will not approve extensions to a voucher issued to an applicant or participant family porting out of DHC's jurisdiction except under the following circumstances:

- The initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA.
- The family decides to return to DHC's jurisdiction to search for a unit; or
- The family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5 will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

To receive or continue receiving HCV assistance under DHC's HCV Program, a family that moves to another PHA's jurisdiction under portability must be under HAP Contract in the receiving PHA's jurisdiction within 60 days following the expiration date of DHC's voucher, including any extensions. (See below under "Initial Billing Deadline" for one exception to this policy.)

13. Initial Contact with the Receiving PHA

Since the portability process is time sensitive, DHC will notify the receiving PHA by phone, fax, or e-mail to expect the family. DHC will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail, and telephone number of the staff person responsible for business with incoming ported families and procedures related to appointments for voucher issuance. DHC will pass this information along to the family. DHC will also ask for the name, address, telephone number, fax, and email of the person responsible for processing the billing information.

14. Sending Documentation to the Receiving PHA

DHC is required to send the receiving PHA the following documents [Notice PIH 2011-03]:

- Form HUD-52665, Family Portability Information, with Part I filled out A copy of the family's voucher.
- A copy of the family's most recent form HUD-50058, Family Report, or, if necessary, in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 [24 CFR 982.355(c)(4)].
- Copies of the income verifications backing up the form HUD-50058 [24 CFR 982.355(c)(4)].

In addition to these documents, DHC will provide the following information, if available, to the receiving PHA:

- Social Security Numbers (SSNs).
- Documentation of SSNs in the file.
- Documentation of legal identity.
- Documentation of citizenship or eligible immigration status.
- A copy of the family's current EIV data.
- Documentation of participation in the earned income disallowance (EID) benefit; and
- Documentation of participation in a family self-sufficiency (FSS) program.

DHC will notify the family in writing regarding any information provided to the receiving PHA.

15. Initial Billing Deadline [Notice PIH 2011-03]

If the DHC has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, which will be 60 days following the expiration date of the voucher issued to the family by DHC, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the receiving PHA reports that the family is not yet under HAP Contract, DHC will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. DHC will send the receiving PHA a written confirmation of its decision by mail.

DHC will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

If the receiving PHA reports that the family is under HAP Contract and the receiving PHA cannot absorb the family, and the receiving PHA is not drawing families from its current HCV waitlist, DHC will accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

16. Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2011-03]

If the receiving PHA is administering the family's voucher, DHC is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after DHC receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept. DHC will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies DHC that direct deposit is not acceptable to them.

DHC may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. DHC will manage its HCV Program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHA's as well as for families that remain within its jurisdiction.

17. Annual Updates of Form HUD-50058

If DHC is being billed on behalf of a ported family, it should receive an updated form HUD-50058 each year from the receiving PHA. If DHC fails to receive an updated 50058 by the family's annual re-examination date, DHC should contact the receiving PHA to verify the status of the family.

18. Subsequent Family Moves

DHC has the authority to deny subsequent moves by ported families that it is assisting under portability billing arrangements if it does not have sufficient funding for continued assistance.

If DHC determines that it must deny moves on the grounds that it lacks sufficient funding, it will notify all receiving PHA's with which it has entered into portability billing arrangements that they, too, must deny moves to higher cost units by ported families from DHC's jurisdiction.

DHC will allow exceptions to this policy for purposes of reasonable accommodation of a disabled family member.

19. Outside the Receiving PHA's Jurisdiction [Notice PIH 2011-03]

If DHC is assisting a ported family under a billing arrangement and the family subsequently decides to move out of the receiving PHA's jurisdiction, DHC is responsible for issuing the family a voucher while the family is either being assisted or has a voucher from the receiving PHA and, if the family wishes to port to another jurisdiction, sending form HUD-52665 and supporting documentation to the new receiving PHA. Any extensions of DHC's voucher necessary to allow the family

additional search time to return to DHC's jurisdiction or to move to another jurisdiction are at the discretion of DHC.

20. Denial or Termination of Assistance [24 CFR 982.355(c)(9)]

If DHC has grounds for denying or terminating assistance for a ported family that has not been absorbed by the receiving PHA, DHC may act on those grounds at any time.

## 10-2D. DHC IN RECEIVING PHA ROLE

If a family has a right to lease a unit in DHC's jurisdiction under portability, DHC will provide assistance for the family [24 CFR 982.355(10)].

DHC's procedures and preferences for selection among eligible applicants do not apply, and DHC's waiting list is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher size will be determined in accordance with DHC's subsidy standards, and the amount of the family's HAP payment is determined in the same manner as for other families in DHC's HCV Program [24 CFR 982.355(e)(2)].

1. Initial Contact with Family

When a family moves into DHC's jurisdiction under portability, the family is responsible for promptly contacting DHC and complying with DHC's procedures for incoming ported families [24 CFR 982.355(c)(3)].

If the voucher issued to the family by the initial PHA has expired, DHC will not process the family's paperwork but instead refers the family back to the initial PHA [Notice PIH 2011-03].

Within 15 business days after a ported family requests assistance, DHC will notify the initial PHA whether it intends to bill the initial PHA on behalf of the ported family or absorb the family into its HCV Program. If DHC initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own HCV Program [Notice PIH 2011-03].

If for any reason the DHC refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2011-03].

2. Briefing

DHC will require the family to attend a briefing. DHC will provide the family with a briefing packet and inform the family about DHC's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

3. Income Eligibility and Re-examination

For any family moving into its jurisdiction under portability, DHC will conduct a re-examination of family income and composition. However, DHC will not delay issuing the family a voucher for this reason. Nor will DHC delay approving a unit for the family until the re-examination process is complete unless the family is an applicant and DHC cannot otherwise confirm that the family is income eligible for admission to the HCV Program in the area where the unit is located.

In conducting its own re-examination, DHC will rely upon any verifications provided by the initial PHA to the extent that they accurately reflect the family's current circumstances and were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third-party verification is received.

4. Voucher Issuance

When a family moves into its jurisdiction under portability, DHC is required to issue the family a voucher [24 CFR 982.355(b)(6)]. The family must submit a request for tenancy approval to DHC during the term of DHC's voucher [24 CFR 982.355(c)(6)].

**a. Timing of Voucher Issuance**

When a family moves into its jurisdiction under portability, DHC will issue the family, within 10 business days, a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with DHC's procedures. DHC will update the family's information when verification has been completed.

**b. Voucher Term**

DHC must issue a voucher to the ported family that does not expire before 30 calendar days from the expiration date of the initial PHA's voucher. DHC must contact the initial PHA if the family's voucher expires before the family arrives at the receiving PHA, to determine whether the initial PHA will extend the voucher.

**c. Voucher Extensions [24 CFR 982.355(c)(6), Notice 2011-03]**

DHC generally will not extend the term of the voucher that it issues to an incoming ported family unless DHC plans to absorb the family into its own HCV Program.

DHC will consider an exception to this policy as a reasonable accommodation to a disabled family member.

If DHC grants additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA.

Unless willing and able to absorb the family, DHC should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

**d. Notifying the Initial PHA**

DHC will promptly notify the initial PHA if the family has leased an eligible unit under the HCV Program or if the family fails to submit a Request for Tenancy Approval for an eligible unit within the term of DHC's voucher [24 CFR 982.355(c)(8)]. DHC is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 CFR 982.355(e)(5), Notice PIH 2011-03].

If an incoming ported family ultimately decides not to lease in DHC's jurisdiction and instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, DHC will refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by DHC is only valid for the family's search in DHC's jurisdiction. [Notice PIH 2011-03]

## 10-2E. ADMINISTERING A PORTABLE FAMILY'S VOUCHER

1. Initial Billing Deadline

If a ported family's search for a unit is successful and DHC intends to administer the family's voucher, DHC will submit its initial billing notice (Part II of form HUD-52665) no later than 10 business days following the date DHC executes a HAP Contract on behalf of the family and in such time that the notice will be received no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2011-03]. A copy of the family's form HUD-50058, Family Report, completed by DHC will be attached to the initial billing notice. DHC may send these documents by mail, fax, or e-mail.

DHC will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If DHC fails to send the initial billing within 10 business days following the date the HAP Contract is executed, it is required to absorb the family into its own HCV Program unless the initial PHA is willing to accept the late submission or HUD requires the initial PHA to honor the late submission, e.g., because DHC is over leased [Notice PIH 2011-03].

2. Ongoing Notification Responsibilities [Notice PIH 2011-03, HUD-52665]

**a. Annual Re-examination**.

DHC will send the initial PHA a copy of a ported family's updated form HUD-50058 after each annual re-examination for the duration of time DHC is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount. DHC will send a copy of the updated HUD-50058 by regular mail at the same time the participant and owner are notified of the re-examination results.

### b. Change in Billing Amount

DHC is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a re-examination, a change in the applicable payment standard, a move to another unit, etc.).
- An abatement or subsequent resumption of the HAP payments.
- Termination of the HAP Contract.
- Payment of a damage/vacancy loss claim for the family; or
- Termination of the family from the HCV Program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 10 business days following the effective date of the change in the billing amount.

### c. Late Payments [Notice PIH 2011-03]

If the initial PHA fails to make a monthly payment for a ported family by the fifth business day of the month, DHC will promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). DHC will send a copy of the notification to the local HUD area office with jurisdiction over DHC. If the initial PHA fails to correct the problem by the second month following the notification, DHC may request by memorandum to the director of the local HUD office with jurisdiction over the initial PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHA's on the matter must be attached. DHC will send a copy of the memorandum to the initial PHA. If the of the local HUD office with jurisdiction over the initial PHA decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to DHC.

### d. Overpayments [Notice PIH 2011-03]

In all cases where DHC has received billing payments for billing arrangements no longer in effect, DHC is responsible for returning the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.

In the event that HUD determines billing payments have continued for at least three (3) months because DHC failed to notify the initial PHA that the billing arrangement was terminated, DHC will take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the local HUD area office with jurisdiction over DHC of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, DHC will be subject to the sanctions spelled out in Notice PIH 2011-03.

### e. Denial or Termination of Assistance

At any time, DHC may decide to deny or terminate assistance to a ported family for family action or inaction [24 CFR 982.355(c)(9), 24 CFR 982.355(c)(10)].

DHC will terminate a family for debts owed to other PHAs. (See Chapter 12)

In the case of a termination, DHC should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should DHC fail to notify the initial PHA later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 2011-03]

If DHC elects to deny or terminate assistance for a ported family, DHC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. DHC will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. DHC will furnish the initial PHA with a copy of the review or hearing decision.

### f. Absorbing a Ported Family

DHC may absorb an incoming ported family into its own HCV Program when DHC executes a HAP Contract on behalf of the family or at any time thereafter providing that DHC has funding available under its annual contributions contract (ACC) and absorbing the family will not result in over leasing [24 CFR 982.355(d) (1), Notice PIH 2011-03].

If DHC absorbs a family from the point of admission, the admission will be counted against DHC's income-targeting obligation [24 CFR 982.201(b)(2)(vii)].

If DHC decides to absorb a ported family upon the execution of a HAP Contract on behalf of the family, DHC will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP Contract will be the effective date of the absorption.

If DHC decides to absorb a family after that, it will provide the initial PHA with 30 days advance notice.

Following the absorption of an incoming ported family, the family is assisted with funds available under the consolidated ACC for DHC's HCV Program [24 CFR 982.355(d)], and DHC becomes the initial PHA in any subsequent moves by the family under portability.

# CHAPTER 11
# RE-EXAMINATIONS

## INTRODUCTION

DHC is required to re-examine each family's income and composition at least annually and to adjust the family's level of assistance accordingly. Interim re-examinations are also needed in certain situations. This chapter discusses both annual and interim re-examinations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and DHC policies concerning re-examinations are presented in three parts:

**Part I: Annual Re-examinations.** This part discusses the process for conducting annual re-examinations.

**Part II: Interim Re-examinations.** This part details the requirements for families to report changes in family income and composition between annual re-examinations.

**Part III: Recalculating Family Share and Subsidy Amount.** This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim re-examinations.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this Admin Plan, apply to both annual and interim re-examinations.

## PART I: ANNUAL RE-EXAMINATIONS [24 CFR 982.516]

### OVERVIEW

DHC will conduct a re-examination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent will be recalculated. This part discusses the schedule for annual re-examinations, the information to be collected and verified, and annual re-examination effective dates. Annual and interim re-examinations will be processed in a manner that ensure families are given reasonable notice of decreases in the Housing Assistance Payment (HAP) and corresponding increases in tenant rent.

## 11-1B. SCHEDULING ANNUAL RE-EXAMINATIONS

DHC will generally begin the annual re-examination process 90 to 120 days in advance of its scheduled effective date. Generally, DHC will schedule annual re-examination effective dates to be within 12 months of the last annual date.

The annual reexamination is defined as 12 months from the effective date of the family's last annual re-examination or, during a family's first year in the HCV Program, from the effective date of the family's initial examination (admission). In instances with moves with continued assistance, DHC will require a participant to complete an annual reexamination if it has been more than 6 months since the last annual.

1. Notification of and Participation in the Annual Re-examination Process

   Families are required to participate in an annual re-examination interview, which must be attended by all adult family members. All household members age 18 or older must attend the annual re-examination interview. If the head of household is unable to attend, the appointment will be rescheduled. The family may only reschedule one time. If a household member age 18 or older, other than the head of household, is unable to attend the annual re-examination interview, the family will be seen and, as appropriate, arrangements made so as to cause minimum harm to the family for the other household member(s) to attend an annual re-examination interview at a later date.

When re-examinations are performed by mail, family members will not be required to attend an interview. In instances of request for reasonable accommodations which have been approved, interviews may be conducted via phone, home visits or mail.

Notification of annual re-examination interviews will be sent at least 10 business days before the interview date and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

2. Documents Required from the Family

In the notification to the family, DHC will include instructions for the family to provide the following information to DHC staff during the re-examination interview:

- Documentation of income for all family members
- Documentation of all assets
- Documents to support any preference claims
- Documentation of any deductions or allowances
- Current Government issued Identification listing the subsidized unit for all adult family members

If the family is unable to attend a scheduled interview, the family should contact the DHC at least 48 hours in advance unless in cases of emergency. of the interview to schedule a new appointment If a family does not attend the scheduled interview, DHC will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews, or if the notice is returned by the post office, a notice of pending termination (see Chapter 12) will be sent to the family's address of record.

For adult household members that are away in school and/or the military, DHC shall require the head of household to make arrangements for these members to mail in the completed required documents including a copy of current government issued photo identification. A personal interview may be scheduled during times of school breaks, or inactive tour of duties or may be conducted via other means.

3. Persons with Disabilities

If requested as a reasonable accommodation by a person with a disability, DHC, to the extent feasible, will provide the notice in an accessible format.

If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact DHC to request a reasonable accommodation. Persons with disabilities who are unable to attend the re-examination interview will be granted a reasonable accommodation which includes, but is not limited to, performing the interview by mail, at the person's home, phone, or at another location, as requested by the family, upon verification that the accommodation requested meets the need presented by the family.

An advocate, interpreter, or other assistant may assist the family in the interview.

## 11-1 C. CONDUCTING ANNUAL RE-EXAMINATIONS

Families are required to bring all requested information, as described in the re-examination notice, to the re-examination appointment.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. The family will be given a checklist of the items that need to be returned. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension in writing, not to exceed 30 calendar days.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be sent a notice of termination (See Chapter 12.

The information provided by the family must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or DHC has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis.

These may include:

- Legal identity
- Age
- Social Security Numbers
  Citizenship or immigration status

If a disabled household member reports that s/he has applied for Supplemental Security Income (SSI), the head of household must present documentation to DHC supporting the application for SSI and the determination from the Social Security Administration within six (6) months of the annual recertification.

**Streamlined Reexamination of Income Triennial Reexams**

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pension, annuities, disability or death benefits, and other sources of income subject to a COLA or a rate of interest. The determination of fixed income may be streamlined even if the family receive income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income received from fixed sources. If at least 90 percent of the family's income is from fixed sources, the PHA may streamline the verification of fixed income and may choose whether to verify non-fixed income amounts in years where no fixed income review is required. If the family receives less than 90 percent of its income from fixed sources, the PHA may streamline the verification of fixed income and must verify non-fixed income annually.

DHC chooses to streamline the annual reexamination process for fixed income sources and will verify non-fixed income annually.

DHC will conduct streamlined reexaminations of families when 90% or more of a family's unadjusted income consists of fixed income. DHC will apply a COLA or COLAs to the family's fixed income sources provided that the family certifies both that 90% or more of its unadjusted income is fixed income and that its sources of fixed income have not changed from the previous year. The streamlined reexamination will occur during year 2 and 3 after a full income review. Full recertifications must occur every three years.

DHC will use a verified COLA or current rate of interest on the individual sources of fixed income. The following types of income are fixed income:

- Social Security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, State, local and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.• Any other source of income subject to adjustment by a verifiable COLA or current rate of interest.

For families with at least one source of fixed income, but less than 90% of the family's income is from fixed sources, DHC must verify and adjust non-fixed sources annually.

## 11-1D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be re-examined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive HCV assistance.

If, however, a student in these circumstances is determined independent from his or her parents, the income of the student's parents will not be considered in determining the student's ongoing eligibility.

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

During the annual re-examination process, DHC will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Chapter 12. If the student continues to be income eligible based on his/her own income and the income of his/her parents, if applicable, DHC will process a re-examination in accordance with the policies in this chapter.

1. <u>Request for Reasonable Accommodations</u>

When a participant has been granted a reasonable accommodation related to such things as unit size, i.e., the participant has been granted an extra bedroom for medical equipment, or any other ongoing reasonable accommodation, DHC shall request documentation of the continuing need for the reasonable accommodation during the annual re-examination process. DHC shall verify a person's ongoing disability only to the extent necessary to determine the reasonable accommodation is still appropriate.

A Request for Reasonable Accommodation Form shall be a part of the re-examination checklist provided to participants.

2. Moves Between Re-Examinations [24 CFR 982.516]

When families move to another dwelling, the annual date for the next annual re-examination will not be changed to the date when the new HAP Contract is approved and signed. The re-examination anniversary may be subject to change.

If a family moves to a new unit, any change in HAP will take effect on the effective date of the new lease and HAP Contract.

3. Income Limits

Income limits are not used as a test for continued eligibility at re-examination unless the family is moving under portability and changing their form of assistance.

## 11-1 E. EFFECTIVE DATES

DHC will send the Adjustment Notification to the owner and family indicating the effective date and changes.

1. Timely Processing

An increase in the family share of the rent that results from an annual re-examination will take effect on the family's annual anniversary date, and the family will be notified at least 30 days in advance.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

*2. Late Processing*

If less than 30 days remain before the scheduled effective date, the HAP decrease (the family portion increases) will take effect on the first of the month following the end of the 30-day notice period. The effective date for the next re-examination date for the family shall be 12 months effective the effective date of the reexamination.

A decrease in the family share of the rent that results from an annual re-examination will take effect on the family's annual anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP Contract.

*3. Early Processing*

If DHC chooses to schedule an annual re-examination for completion before the family's annual anniversary date for administrative purposes, the effective date will be determined by DHC, but will always allow for the 30-day notice period.

**Family-Caused Delays in Processing Annual Re-Examination**

If the family causes a delay in processing the annual re-examination, decreases in the family share of the rent will be applied immediately, from the first day of the month following completion of the re-examination processing.

If the family causes a delay in processing the annual re-examination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the annual re-examination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

Delays in re-examination processing are considered to be caused by the family if the family fails to provide information requested by DHC by the date specified, and this delay prevents DHC from completing the re-examination as scheduled.

## PART II: INTERIM RE-EXAMINATIONS [24 CFR 982.516]

## 11-2 A. OVERVIEW

Family circumstances may change throughout the period between annual re-examinations. This part includes HUD and DHC policies describing what changes families are required to report, what changes families must choose to report, and how DHC will process both DHC- and family-initiated interim re-examinations.

## 11-2 B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

DHC will conduct interim re-examinations to account for any approved changes in household composition that occur between annual re-examinations. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted.

For additions to the household composition, the income of new family member(s) must be included in the income and rent re-determination, and the family's rent will be adjusted accordingly effective the first of the month following a written 30-day notice of the rent increase.

1. New Family Members Not Requiring Approval - Minors

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require DHC approval prior to residency. However, the family must inform DHC of the birth, adoption, or court-awarded custody of a child within 30 days of the occurrence.

2. New Family Members Not Requiring Immediate Approval – Incapacitated Adults

The addition of a family member as a result of court-awarded custody does not require DHC approval prior to residency. However, the family must inform DHC of the court-awarded custody of an incapacitated adult within 30 days of the occurrence. The adult member will be required to meet all eligibility criteria.

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request DHC approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)] within 10 days of the addition. This includes a spouse and their legal dependents (as defined in Chapter 3) not on the lease that is expected to stay in the unit for more than 30 consecutive days within a 12-month period, and therefore no longer qualifies as a guest. Landlords must also approve the additional household member. Requests must be made in writing and approved by both DHC and the owner prior to the individual moving into the unit.

DHC will not approve the addition of a new family or household member unless the individual meets the DHC's eligibility criteria (see Chapter 3). DHC will not approve the return of adult household members or adult household members with children.

If DHC determines an individual meets DHC's eligibility criteria as defined in Chapter 3, DHC will provide written approval to the family.

DHC will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued another voucher and will be required to move.

When any new family member is added, DHC will conduct a re-examination to determine any new income or deductions associated with the additional family member, and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].

If DHC determines that an individual does not meet DHC's eligibility criteria as defined in Chapter 3, DHC will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The U.S. citizenship/eligible immigrant status of proposed additional family members must be declared and verified by DHC before approving the additional family member.

DHC will make its determination within 60 days of receiving all information required to verify the individual's eligibility.

Only the following will be considered as an addition to the household (even if the individual(s) PREVIOUSLY resided in the household):

- Minors – birth, adoption, court-awarded custody
- Persons eighteen (18) years of age or older – spouse, legally incapacitated adults
- Legal dependents of spouse residing in the household
- Live-in aide
- Foster child/foster adult

3. Reasons for Denying Approval of Additional Family Member

DHC may deny a family's request to add additional family members who:

- have been evicted from public housing
- do not meet DHC's definition of family
- commit drug-related criminal activity or violent criminal activity
- have engaged in or threatened abusive or violent behavior toward DHC personnel or agents
- have been part of a family whose assistance has been terminated under the HCV Program
- have previously violated a family obligation listed in 24 CFR 982.551 of HUD regulations
- have committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- have been convicted of manufacturing methamphetamine on the premises of a dwelling where HCV assistance is provided to the tenant
- currently owe rent or other amounts to DHC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act

DHC may also deny a family's request to add additional family members, if the addition will cause the family to be under housed and require a larger unit size.

4. Departure of a Family or Household Member

Families are required to notify DHC within 10 business days if any family member leaves the assisted household. When the family notifies DHC, it must furnish the following information:

- the date the family member moved out
- documentation of the new address of the family member, if known, or provide other verification or documentation to substantiate the absence/move such as an executed lease, driver's license, or State ID
- court documents verifying divorce, separation, or new custody arrangements

This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must also inform DHC within 10 business days.

## 11-2C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the PHA has reason to believe changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

1. DHC-Initiated Interim Re-examinations

DHC-initiated interim re-examinations are those that are scheduled based on circumstances or criteria defined by DHC. They are not scheduled because of changes reported by the family.

When a family identifies excluded income sources, outside contributions, and/or gifts as the sole income source(s), DHC will evaluate the dollar value of the contributions and use HHS's (Department of Health and Human Services) established standards for the value of non-monetary contributions. For example: if a family receives food stamps, such standards will not be considered. However, if the family reports zero income and are responsible for utilities, DHC may verify the estimated value of living expenses and utilities from a DHC-identified source.

DHC will conduct interim re-examinations in each of the following instances:

- Any decreases in income, or
- Any new sources of income or increase in a current source of income $200 or more per month (unless previously reporting zero income or income from outside contributions and/or gifts); and

- All changes in household composition; and

    - For families receiving the Earned Income Disallowance (EID), DHC will conduct an interim re-examination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period); and
    - If the family has reported zero income, or if the household's sole source of income is reported as outside contributions and/or gifts, DHC will conduct an interim re-examination every 6 months as long as the family continues to report one of the aforementioned circumstances. Interims in this category will be performed regardless of whether the household experienced an increase in income; and
    - If an adult family member has reported zero income or the individual's sole source of income reported as outside contributions and/or gifts or income reported by the head of household. DHC will conduct an interim re-examination every 6 months as long as the family member continues to report one of the aforementioned circumstances. Interims in this category will be performed regardless of whether the household experienced an increase in income; and
    - If at the time of the annual re-examination, it is not feasible to anticipate a level of income for the next 12 months, e.g., seasonal, or cyclic income, DHC will schedule an interim re-examination to coincide with the end of the periodfor which it is feasible to project income.
    - If DHC determines it cannot readily anticipate income based on current circumstances (seasonal employment, unstable working hours, other reasons determined by DHC) and elects to review and analyze historical data for patterns of employment, paid benefits or receipt of other sources of income in order to establish annual income, DHC may elect, in its sole discretion, to only process changes when a participant or household member reports a new source of income or permanent loss of previously reported income. DHC's justification for this decision is that fluctuations in income sources have already been taken into consideration with establishing the annual income based on historical data. The participant is still required to report all changes in income in order for DHC to determine what action, if any, is necessary to properly calculate the tenant rent.
    - If at the time of the annual re-examination, participant-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DHC will conduct an interim re-examination. If upon receipt of the third-party verifications there is a change in HAP, the participant and landlord will be given a 30-day written notice of rent change.
    - DHC may conduct an interim re-examination at any time in order to correct an error in a previous re-examination, or to investigate suspected fraud.
    - DHC may conduct an interim re-examination and back date the income and subsidy calculation to the last annual reexamination if there is a discovery of unreported income and a pattern of the same.

- Information obtained from EIV showing historical income will be used to determine subsidy calculations.

2. Family-Initiated Interim Re-examinations

### a. Required Reporting

Families are required to report all changes in family composition and increases in income, including new employment, SS, SSI, FIP, etc. (for each family member) within 10 days of the date the changes take effect

In general, when a family reports a change that would result in a decrease in the family share of rent, DHC will conduct and interim reexamination.

However, when DHC elects to annualize income based on historical patterns of employment, paid benefits, or receipt of other sources of income, DHC may elect, at its sole discretion, to only process changes when a participant or household member reports a new source of income or permanent loss of previously reported income. The participant is still required to report all changes in income in order for DHC to determine what action, if any, is necessary to properly calculate the tenant rent.

If the family's TTP is the minimum rent and/or the family has requested a hardship exemption, the family must report any increase in income.

DHC will only conduct interim re-examinations for families that qualify for the earned income disallowance (EID) only when the EID family's share of rent will change as a result of the increase.

DHC is required to conduct an interim re-examination when the family has experienced a hardship. Hardships include but are not limited to a reduction in the level of income calculated at the annual re-examination, or an increase in an allowable deduction of the deductions calculated at the annual re-examination.

### b. Optional Reporting

The family may request an interim re-examination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. DHC must process the request if the family reports a change that will result in a reduced family income.

3. Effective Dates

### a. If the family share of the rent is to increase

The increase generally will be effective on the first of the month following the 30-day notice to the family unless a delay was caused by the families' failure to provide requested documentation. In such cases the increase will be effective the first of the month following the month in which the information was received.

The family may be responsible for any overpaid subsidy caused by the delay.
If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

**b. If the family share of the rent is to decrease**

The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively, unless the family fails to provide requested documentation. In such cases the decrease will be effective the first of the month following the month in which the information was received.

## 11-2 D. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS (24 CFR 5.615)

DHC will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefits reduction," which is a reduction in benefits by the welfare agency specifically because of:

- Fraud in connection with the welfare program; or
- Non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program.

1. Definition of Imputed Welfare Income

"Imputed welfare income" is 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 DHC, based on written information supplied to DHC by the welfare agency, including:

- The reason for the reduction.
- The term of the benefit reduction.
- The amount of the benefit reduction; or
- 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 re-examination, during the term of the welfare benefits reduction specified by the welfare agency.

The amount of the 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 participant when the welfare sanction began, imputed welfare income will not be included in annual income.

2. Verification before Denying a Request to Reduce Rent

DHC will obtain written documentation from the welfare agency stating that the family's benefits have been reduced due to fraud or non-compliance with welfare agency economic self-sufficiency or work activity requirements before denying the family's request for rent reduction.

DHC will rely on the welfare agency's written documentation regarding welfare sanctions.

## 11-2 E. PROCESSING THE INTERIM RE-EXAMINATION

The family must notify DHC of changes in writing. The family will be required to provide DHC with all applicable documents regarding the income change without having an interview for an interim re-examination. However, if DHC determines that an interview is warranted, the family will be advised in writing.

Based on the type of change reported, DHC will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from DHC. This time frame may be extended for good cause with DHC approval. DHC will accept required documentation by mail, by fax, e-mail, or in person.

# PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

## 11-3 A. OVERVIEW

After gathering and verifying required information for an annual or interim re-examination, DHC will recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes. While the basic policies that govern

these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a re-examination.

## 11-3 B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in DHC's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

1. Payment Standards [24 CFR 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located. See Chapter 6 for information on how to select the appropriate payment standard.

When DHC changes its payment standards or the family's situation changes, new payment standards will be applied as follows:

- If DHC's payment standard amount changes during the term of the HAP Contract, the date on which the new standard is applied depends on whether the standard has increased or decreased.
    - If the payment standard amount has increased, the increased payment standard will be applied at the first annual re-examination following the effective date of the increase in the payment standard.
    - If the payment standard amount has decreased, the decreased payment standard will be applied at the second annual re-examination following the effective date of the decrease in the payment standard.

If the family moves to a new unit, or a new HAP Contract is executed due to changes in the lease, even if the family remains in place, the current payment standard applicable to the family will be used when the new HAP Contract is processed.

2. Subsidy Standards [24 CFR 982.505(c)(4)]

If there is a change in the family unit size that would apply to a family during the HAP Contract term, either due to a change in family composition, or a change in DHC's subsidy standards (see Chapter 6), the new family unit size must be used to determine the payment standard amount for the family at the family's first annual re-examination following the change in family unit size.

3. Utility Allowances [24 CFR 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in DHC's utility allowance schedule.

When there are changes in the utility arrangement with the owner, DHC will use the utility allowances in effect at the time the new lease and new HAP Contract are executed.

At re-examination, DHC will use DHC's current utility allowance schedule [24 CFR 982.517(d)(2)].

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective at the time the annual reexamination is completed.

## 11-3 C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

DHC will notify the owner and family of **any** changes in the amount of the HAP payment. This notice will be in writing to the owner and family.

The notice must include the following information:

- The amount and effective date of the new HAP payment.
- The amount and effective date of the new family share of the rent.
- The amount and effective date of the new tenant rent to own; and
- The procedures for requesting an informal hearing.

The notice may also include activity associated with changes in the voucher size, family composition, utility assignment, rental increases.

## 11-3D. DISCREPANCIES

During an annual or interim re-examination, DHC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DHC may discover errors made by DHC. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 16.

## 11-3E. DHC ERRORS

Calculation errors will be corrected and accounted for based on activity.

# CHAPTER 12

# TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which DHC can terminate a family's assistance and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance and termination of tenancy by the owner, and the policies and procedures for such terminations. It is presented in three parts:

**Part I: Grounds for Termination of Assistance**. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by DHC based on the family's behavior.

**Part II: Approach to Termination of Assistance.** This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that DHC may consider in lieu of termination, the criteria DHC must use when deciding what action to take and the steps DHC must take when terminating a family's assistance.

**Part III: Termination of Tenancy by the Owner**. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

## PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

## 12-1A. OVERVIEW

HUD requires DHC to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits DHC to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying DHC.

## 12-1B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of DHC subsidy goes down. If the amount of HCV assistance provided by DHC drops to zero and remains at zero for 180 consecutive calendar days, the family's assistance terminates automatically.

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify DHC of the changed circumstances and request an interim re-examination before

the expiration of the 180-day period. The family will not be permitted to be assisted in a new unit if the HAP assistance provided by DHC would be zero. If the family proceeds with the move the family will be terminated from the program due to the Zero HAP.

The zero-income provision does not apply to the PBV program. If a PBV unit is occupied by a family for which housing assistance is no longer required, the PHA has the option of removing the unit from the PBV/HAP contract or substituting the unit with a comparable unit in the development for occupancy by another PBV eligible family rather than hold off on the use of assistance for six months.

## 12-1C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that DHC terminate the family's assistance at any time. Family terminations of the lease must be in accordance with the terms of the lease. See Chapter 10 on “Moves with Continued Assistance”

The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family’s assistance, DHC will follow the notice requirements as stated in this chapter**.**

When a participant voluntarily terminates from the program, the termination effective date is the earliest of 1) the last date of the month in which the family vacated the unit, or 2) the last day of the "self-termination" month stated in the participant provided written notification to DHC of the voluntary termination. The family notice of "self-termination" needs to include the effective date of the self-termination. The self-termination notice must also be provided to the property owner. When possible, based on timing, DHC will work to provide the owner with a 30-day notice of contract termination. When the program participant self-terminates, DHC's policies for appeals and hearings are not applicable since the action is participant-initiated and not the result of DHC action.

## 12-1D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires DHC to terminate assistance in the following circumstances:

1. Eviction [24 CFR 982.552(b) (2)]

DHC must terminate assistance whenever a family is evicted from a unit assisted under the HCV Program for a serious or repeated violation of the lease.

A family will be considered evicted if the family moves after a Writ of Restitution has been issued and a bailiff has removed the family’s belongings.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a bailiff removes the family’s belongings,

termination of assistance is not mandatory. In such cases DHC will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-2C. In making its decision, DHC will consider the factors described in sections 12-2D and 12-2E. Upon consideration of such factors, DHC may, on a case-by-case basis, choose not to terminate assistance. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

*Serious and repeated lease violations* will include, but not be limited to, non-payment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

It is a family obligation to provide copies to DHC of all notices issued to them by the landlord within 10 business days following receipt of any notice. Failure to do so is grounds for termination of assistance.

If the notice of termination issued by the landlord is for cause, DHC shall review the basis for the termination to determine if the violation of the lease is also a violation of the family's obligations under the voucher, and if DHC should begin an investigation that could lead to the termination of the family from the HCV program.

2. Failure to Provide Consent [24 CFR 982.552(b) (3)]

DHC must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a re-examination.

3. Failure to Document Citizenship [24 CFR 982.552(b) (4) and [24 CFR 5.514(c)]

DHC must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by DHC, has knowingly permitted another individual who is not eligible for assistance to reside, on a permanent basis, in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household where the family's assistance has been pro-rated.

4. Failure to Provide Social Security Number Documentation [24 CFR 5.218(c)]

DHC must terminate assistance if a participant family fails to provide the documentation or certification required for any family member social security number.

If the family is otherwise eligible for continued program assistance, and DHC determines (1) the family's failure to meet the SSN disclosure and documentation requirements are due to circumstances that could not have been foreseen and were outside the family's control and (2) there is a reasonable likelihood that the family will be able to disclose the SNN and provide the SSN documentation by the deadline, DHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 30 calendar days from the date DHC determined the family to be non-compliant.

*5. Failure of Students to Meet Ongoing Eligibility Requirements*

*[24 CFR 982.552(b) (5)]*

If a student enrolled at an institution of higher education is:

- under the age of 24
- is not a veteran
- is not married
- does not have a dependent child
- is not a person with disabilities receiving HCV assistance as of November 30, 2005?

DHC must terminate the student's assistance if, at the time of re-examination, either the student's income or the income of the student's parents, if applicable, exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and DHC policies or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

6. Methamphetamine Manufacture or Production [24 CFR 982.553(b) (1) (ii)]

DHC must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

7. Lifetime Registrant on State Sex Offender Registry

DHC must terminate assistance determines that a participant is a lifetime registrant on a state sex offender registry. This mandatory termination will occur if the member of the

household was subject to a state sexual offender lifetime registration requirement at the time of admission into the HCV Program and was erroneously admitted into the HCV Program or if the member of the household became subject to a state sexual offender lifetime registration requirement after being admitted into the HCV Program.

DHC will offer the family the opportunity to remove the ineligible family member from the household but must terminate assistance if the family is unwilling to remove the offending household member.

8. Death of the Sole Family Member, the PHA must immediately termination the program assistance for deceased single household members. Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive

## 12-1 E. OTHER AUTHORIZED TERMINATIONS

1. Use of Illegal Drugs, Marijuana, and Alcohol Abuse

The legalization of marijuana in the State of Michigan directly conflicts with the HUD definition of a controlled substance in Section 102 of the Controlled Substances Act. The conflicting State and Federal laws present a challenge to administer a federally funded Housing Choice Voucher Program. As a result, DHC will apply the following standards when considering if a participant's housing should be terminated with a local official property manager, property owner or DHC staff member witness the possession and/or use of marijuana in an assisted unit via an HQS Inspection or are made aware of a participant's use of marijuana that results in:
Violation of the lese
HQS breach caused by the family or visitor (invited or uninvited)
Verbal or written law enforcement report of criminal activity.

DHC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises of other residents. DHC will terminate assistance if any household member's abuses or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises of other residents.

DHC may, within its discretion, terminate the assistance of individual medical marijuana users, rather than an entire household

Currently engaged in is defined as any use of illegal drugs during the previous twelve months.

DHC will consider all credible evidence, including by not limited to, police reports, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs, or abuse of alcohol.

A record of arrest(s) will not be used as the basis for termination or proof that the participant engaged in disqualifying criminal activity.

DHC, in its sole discretion, may terminate a participant's assistance when a subsequent criminal screening shows that an arrest and/or charge has been adjudicated and the participant was found guilty or pled nolo contender. In these instances, the participant may be subject to termination based on either the judicial or sentencing date.

In making its decision to terminate assistance, DHC will consider alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

### c. New Admissions

HUD prohibits admission of participants into the HCV Program who engage in the current illegal use of controlled substances, including state legalized medical marijuana. State laws that legalize medical marijuana directly conflict with HUD admission requirements and are thus subject to federal preemption.

### e. Other Illegal Drugs

DHC will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous 12 months.

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In making its decision to terminate assistance, DHC will consider alternatives as described in this chapter. Upon consideration of such alternatives and factors, DHC may choose not to terminate assistance.

### f. Treatment

If the household member has been charged or convicted for a drug related-criminal activity involving use or possession, but not production, manufacture, or sale, the family's housing assistance will not be terminated if the household member is no longer engaging in any drug activity and is actively participating in a supervised drug treatment program within sixty (60) days of DHC's notification to the head of household of drug-related criminal activity. Failure to actively participate in or complete the drug treatment program successfully, will result in termination of the assistance for the entire household.

### g. Alcohol Abuse

DHC will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

2. Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

DHC will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV Program.

DHC will consider all credible documentation, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, any eviction or notice to evict based on drug-related or violent criminal activity, police reports and search warrants.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

DHC further defines examples of violent criminal activity to include but not be limited to rape, murder, robbery, arson, assault, and home invasion.

In making its decision to terminate assistance, DHC will consider alternatives as described elsewhere in this chapter. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

If the household member has been charged or convicted for a drug-related criminal activity involving use or possession, but not production, manufacture, or sale, the family's housing assistance will not be terminated if the household member is no longer engaging in any drug activity and is actively participating in a supervised drug treatment program within sixty (60) days of DHC's notification to the head of household of drug-related criminal activity. Failure to actively participate in or complete the drug treatment program successfully, will result in termination of the assistance for the entire household.

*1. Other Reasons to Terminate*

DHC will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency or Welfare to Work voucher programs.

DHC will terminate a family's assistance if:

- The family has failed to comply with any family obligations under the HCV Program. Any family member has been evicted from federally assisted housing in the last five years.
- Any PHA has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA, , in connection with federal housing programs.
- The family has not reimbursed DHC for amounts DHC paid to an owner under a HAP Contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with DHC or other DHC.
- The family has breached any part of the HCV Program.
- A family member has engaged in or threatened violent or abusive behavior toward DHC personnel or agents.
- Abusive or violent behavior towards DHC personnel or agents includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
- Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, DHC will consider alternatives as described elsewhere in this chapter.

2. Family Absence from the Unit [24 CFR 982.312]

If all members of the household are absent for thirty (30) consecutive days, but have not moved from the unit, and DHC has determined the unit to be abandoned, assistance will be terminated. In order to determine if the family is absent from the unit, DHC may write letters to the family at the unit, telephone the family at the unit, interview the owner/landlord and neighbors, statement made by the participant or family member, perform inspections to the unit, and/or verify if utilities are in service. In cases in which the family has moved from the unit, assistance will be terminated in accordance with the procedures set forth later in this Admin Plan. Returned mail shall be just caused to makethe determination that the unit has been abandoned. Termination of assistance shall occur the last day of the month in which DHC determined the unit to be abandoned.

3. Insufficient HAP Funding [24 CFR 982.454]

DHC may consider terminating assistance if the Executive Director determines there is insufficient HAP funding.

4. Failure to Reimburse DHC

DHC will terminate a family that breaches an agreement to reimburse DHC for any amounts paid on the family's behalf by DHC.

5. Fleeing to Avoid Prosecution

DHC may terminate a family if DHC determines that a member of the household 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.

6. Violation of Probation or Parole

DHC may terminate a family if DHC determines that a member of the household is violating a condition of probation or parole imposed under federal or state law.

7. Family Obligations

DHC may terminate assistance for a participant who violates the family obligations listed in 24 CFR 982.551 and/or the following family obligations:

- The family must supply any information that DHC or HUD determines to be necessary for the administration of the HCV Program, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by DHC or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- All information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach caused by the family as described in 24 CFR 982.404(b).
- The family must allow DHC to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8.
- The family must not commit any serious or repeated violation of the lease. VAWA related activities will not be considered as serious lease violations by the victim or threatened victim.
- The family must notify DHC and the owner in writing before moving out of the unit or terminating the lease.

- The family must give DHC a copy of any owner eviction notices promptly. DHCdefines promptly as 10 business days of receipt of the eviction notice.

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

- The family must notify DHC, in writing, within 60 days of the birth, adoption, or court-awarded custody of a child the family must request DHC approval to add any other family member as an occupant of the unit. No other persons may reside in the unit other than those approved by DHC. The request to add a family member must be submitted in writing and approved before the person moves into the unit.

- A family may not allow a foster child, foster adult, or live-in aide to live in the unitwithout DHC's prior approval.

- The family must notify DHC within 10 business days, in writing, if any member no longer resides in the unit.

- The family may engage in legal profit-making activities in the unit, that such activities are approved by the property owner and are incidental to the primary use of the unit by the family.

- The family must not sublease the unit, assign the lease, or transfer the unit.
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space, or HCV Homeownership Program).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the federal programs.
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in near the premises. VAWA related activities will not be considered as serious lease violations by the victim or threatened victim.
- An assisted family or member of the family must not receive HCV assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.

- DHC may terminate assistance if the family was previously terminated due to fraud or program violation by another PHA within five years from the date DHC discovered the termination.

8. Death of the Sole Family Member

DHC must immediately terminate program assistance for deceased single member households. Per the HAP Contract, the termination effective date must be the last day of the month in which the death occurred, which may be retroactive.

**PART II: APPROACH TO TERMINATION OF ASSISTANCE**

## 12-2 A. OVERVIEW

DHC is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give DHC the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions DHC may choose to take when it has discretion and outlines the criteria DHC will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

Termination of assistance for a participant may include any or all of the following:

Terminating housing assistance payments under a current HAP contract,
refusing to enter into a new HAP contract or approve a lease, or
Refusing to process a request for or to provide assistance under portability procedures.

## 12-2B. ALTERNATIVES TO TERMINATION OF ASSISTANCE

1. Change in Household Composition

As a condition of continued assistance, DHC may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c) (2) (ii)].

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's new address upon DHC's request.

2. Repayment of Family Debts

If a family owes amounts to DHC or another PHA, as a condition of continued assistance, the family must repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from DHC of the amount owed.

Additionally, payments must remain current for any repayment agreement entered into with a previous landlord for unpaid rent, tenant-caused damages, and utilities.

## 12-2C. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

1. Preponderance of Evidence

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

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

DHC will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case.
- The extent of the participant's or a family member's culpability.
- Mitigating circumstances related to whether the family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking.
- Mitigating circumstances related to whether the family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault, or stalking.
- The effects of denial or termination of assistance on other family member who were not involved in the action or failure.

In addition, DHC will consider:

- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and likelihood of favorable conduct in the future
- the family's recent history and the likelihood of favorable conduct in the future in the case of drug or alcohol abuse.
- whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been successfully rehabilitated. DHC will require the participant to submit evidence of the household member's current participation in or successful

completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been successfully rehabilitated.
- In the case of program misuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

3. Reasonable Accommodation [24 CFR 982.552(c) (2) (iv)]

If the family includes a person with disabilities, DHC's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

If a family indicates the behavior of a family member with a disability is the reason for a proposed termination of assistance, DHC will determine whether the behavior is related to the disability. If so, upon the family's request, DHC will determine whether alternative measures are appropriate as a reasonable accommodation. DHC will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

## 12-2 E. TERMINATION NOTICE

If a family's assistance is to be terminated, whether voluntarily or involuntarily, DHC must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated.
- The effective date of the termination; and
- The family's right to an informal hearing.

When termination is initiated by DHC, the notice to terminate will be sent to the family and the owner at least 30 calendar days before the effective date of the termination. However, if a family vacates the unit without informing DHC, a 30-day notice will not be given. The termination shall be effective the last calendar date that the unit was determined to be abandoned.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that DHC sends to the family must meet the additional HUD and DHC notice requirements discussed in section 16-3C of this plan. VAWA 2013 expands notification requirements to require DHC to provide notice of VAWA rights when DHC terminates a household's housing benefits.

Whenever DHC decides to terminate a family's assistance because of the family's action or failure to act, DHC will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD 50066. DHC will request that a family member wishing to claim protection under VAWA notify DHC within 15 business days.

## 12-2F. FAMILY REQUEST TO BE TERMINATED FROM THE HCV PROGRAM

The family may request that DHC terminate the family's assistance at any time. The request to terminate assistance should be made in writing and signed by the head of household. Before terminating the family's assistance, DHC will follow the notice requirements as stated in this chapter. If DHC receives a verbal request by the head of household to terminate assistance, DHC shall provide notification to the head of household and the landlord of the contract termination. The head of household shall have 10 business days to confirm program status. If the head of household does not respond, DHC will proceed with program termination as stated.

DHC shall include the required documents with the termination notice in incidents of domestic violence that may be covered by VAWA.

## 12-2 G. NOTICE OF TERMINATION BASED ON CITIZENSHIP STATUS

**[24 CFR 5.514 (c) and (d)]**

DHC must terminate assistance if:

- A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status.
- Evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or
- DHC determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside in the unit on a permanent basis. Such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for pro-ration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

The notice to terminate will be sent to the family and the owner at least 30 calendar days before the effective date of the termination.

## 12-2 H. HOW TERMINATION OF ASSISTANCE AFFECTS THE HAP CONTRACT AND LEASE

When the family's assistance is terminated, the lease and HAP Contract terminate automatically.

## PART III: TERMINATION OF TENANCY BY THE OWNER

### 12-3 A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; DHC is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

If the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and Michigan law. The owner must provide DHC with a copy of the eviction notice and other court documents within 10 business days of court action.

The owner must provide the participant 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 notices to theparticipant.

The owner eviction notice means a notice to vacate, or a complaint, or other initial pleading used under Michigan law to commence an eviction action.

The owner must specify the section of the lease that has been violated and cite some or all of the ways in which the participant has violated that section as documentation for DHC termination of assistance.

HAP 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, DHC will continue to make HAP payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the participant.

DHC will continue making HAP payments to the owner in accordance with the HAP Contract while in the appeal process as long as the participant continues to occupy the unit. By endorsing the monthly check from DHC, the owner certifies that the participant is still in the unit, and she/he is in compliance with the HAP Contract. If action is finalized in court, the owner must provide DHC with the documentation, including notice of the eviction date, if any.

If the eviction is not due to a serious or repeated violation of the lease, and if DHC has no other grounds for termination of assistance, DHC will issue a new voucher so that the family can move with continued assistance.

## 12-3 B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

1. Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, or stalking against that participant. This includes failure to pay rent or other amounts due under the lease. However, DHC's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner. A participant will be considered in good standing if an agreement for the violation has been entered by the third party the participant must maintain the terms of the agreement to remain in good standing. Notification of failure to maintain the agreement may results in program termination.

2. Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

3. Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the participant's control commits any of the following types of criminal activity:

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents, including property management staff residing on the premises.
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises.
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of Michigan,

- Violating a condition of probation or parole imposed under federal or state law; or
- The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

4. Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person engaged in the criminal activity, regardless of arrest or conviction, and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, or stalking and the participant or an immediate member of the participant's family is the victim or threatened victim of the domestic violence, dating violence, stalking, or sexual assault.

5. Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision.
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent.

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease. Lease violations must be current lease violations. Current is defined as violations that have occurred within the previous 12 months.

## 12-3C. EVICTION [24 CFR 982.310(e) and (f)]

The owner must give the participant a written notice that specifies the section of the lease that has been violated and cite some or all of the ways in which the participant has violated that section. The landlord must provide a copy of this notice to DHC as documentation for DHC's termination of assistance within 10 business days.

The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action. The notice of grounds may be included in, or may be combined with, any owner eviction notices to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give DHC a copy of any eviction notices at the same time the owner notifies the family. The family is also required to give the DHC a copy of any eviction notice within 10 business days

If the eviction action is finalized in court, the owner must provide DHC with documentation related to the eviction, including the judgment of possession, and evidence of the eviction date if the bailiff removed the participant's property, as soon as possible, but no later than 10 business days following the court-ordered eviction.

## 12-3 D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h)]

An owner who has grounds to terminate a tenancy is not required to do so and may consider all the circumstances relevant to a particular case before making a decision.

These might include:

- The nature of the offending action.
- The seriousness of the offending action.
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy.
- The extent of participation by the participant in the offending action.
- The effect of termination of tenancy on household members not involved in the offending activity.
- The demand for assisted housing by families who will adhere to lease responsibilities.
- The extent to which the participant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and

The effect of the owner's action on the integrity of the HCV Program.
No future subsidy payments on behalf of the family will be made by DHC to the owner after the month in which the HAP Contract is terminated. The owner must reimburse DHC for any subsidies paid by DHC for any period after the HAP Contract termination date. If the family continues to occupy the unit after the HAP Contract is terminated, the family is responsible for the total amount of rent due to the owner.

After a HAP Contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.
The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been successfully rehabilitated. For this purpose, the owner may require the participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been successfully rehabilitated.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105. The owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence Against Women Act of 2013 (VAWA) and conforming regulations in 24 CFR Part 5, Subpart L.

## 12-3E. EFFECT OF TERMINATION OF TENANCY ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if DHC has no other grounds for termination of assistance, DHC may issue a new voucher so that the family can move with continued assistance.

# CHAPTER 13

# OWNERS

## INTRODUCTION

Owners play a central role in the HCV Program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV Program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the HCV Program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV Program.

This chapter is organized in two parts:

**Part I: Owners in the HCV Program.** This part discusses the role of an owner in DHC’s HCV Program and highlights key owner rights and responsibilities.

**Part II: HAP Contracts.** This part explains provisions of the HAP Contract and the relationship between DHC, and the owner as expressed in the HAP Contract.

For detailed information about HCV Program responsibilities and processes, including DHC policies in key areas, owners will need to refer to several other chapters in this Admin Plan.

## PART I. OWNERS IN THE HCV PROGRAM

## 13-1A. OWNER RECRUITMENT AND RETENTION

### 1. Recruitment

DHC is responsible for ensuring that a sufficient number of owners, representing all types and ranges of affordable housing in DHC’s jurisdiction, are willing to participate in the HCV Program.

DHC will conduct owner outreach to ensure that owners are familiar with the HCV Program and its advantages. DHC will actively recruit property owners with property located outside areas of poverty and minority concentration. DHC will conduct outreach

events, the notification will be done in a manner that is effective for persons with hearing, visual, and other communication-related disabilities. DHC will also take reasonable steps to ensure meaningful access to the program to persons with limited English proficiency.

These outreach strategies will include, but are not limited to:

- Distributing printed material about the program to property owners and managers.
- Contacting property owners and managers by phone or in-person.
- Holding owner recruitment/information meetings at least once a year.
- Participation in community-based organizations comprised of private property andapartment owners and managers.
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations; and
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

2. Retention

In addition to recruiting owners to participate in the HCV Program, DHC will provide the kind of customer service that encourages participating owners to remain active in the HCV Program.

DHC provides information to owners via the DHC website, electronically or in print.

## 13-1B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires DHC to aid families in their housing search by providing the family with a list of landlords or other parties known to DHC who may be willing to lease a unit to the family, or to help the family find a unit.

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify DHC. DHC will maintain a listing of such owners and provide this listing to the HCV family as part of the informational briefing packet

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. DHC has no liability or responsibility to the owner or

other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the HCV Program's requirements. A copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A), must to be submitted with the RFTA. See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions. The owner must be qualified to participate in the HCV Program [24 CFR 982.306]. Some owners are precluded from participating in the HCV Program, or from renting to a particular family, either because of their past history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the HCV Program [24 CFR 982.305(a)]. In addition, the owner must document legal ownership of the specified unit. See chapter 9 for more detail on unit eligibility policies and process. The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. DHC will inspect the owner's dwelling unit at various stages of HCV Program participation, to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards, as well as the process for HQS inspections at initial lease-up and throughout the family's tenancy.

DHC will determine that the cost of the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness.

At initial lease-up of a unit, DHC must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all HCV Program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. However, the HCV Program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See chapter 9 for a discussion of the dwelling lease and Tenancy Addendum, including lease terms and provisions.

DHC and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP Contract format is prescribed by HUD. See chapter 9 for a discussion of the HAP Contract execution process. Specific HAP Contract provisions and responsibilities are discussed later in this Chapter 13.

## 13-1 C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV Program are outlined in the regulations as follows:

- Performing all the owner's obligations under the HAP Contract and the lease.
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if thefamily is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the HQS, including performance of ordinary and extraordinary maintenance.
- Complying with equal opportunity requirements.
- Preparing and furnishing to DHC information required under the HAP Contract.
- Collecting from the family any security deposit, the family's contribution to rent, i.e., that part of rent to owner not covered by DHC's HAP payment, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease.
- Paying for utilities and services unless to be paid by the family under the lease (NOTE: DHC requires that the utility bill (when applicable) is in the name of the owner if the owner is the responsible party for paying for the utility service).
- Allowing the making of modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]; and
- Complying with the Violence Against Women Reauthorization Act of 2013 (VAWA) when screening and terminating tenants.

## 13-1D. OWNER QUALIFICATIONS

DHC does not formally approve an owner to participate in the HCV Program. However, there are a number of criteria where DHC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV Program [24 CFR 982.306(e)].

1. Owners Barred from Participation [24 CFR 982.306(a) and (b)]

DHC will not approve the assisted tenancy if DHC has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

When directed by HUD, DHC will not approve an assisted tenancy if 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; or a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

2. Other Reasons to Deny Tenancy Based Upon Owner Actions

DHC will not approve a request for tenancy if DHC becomes aware of the following:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program a conviction is not required before DHC can find that the landlord violated this provision.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity a conviction is not required before DHC can find that the landlord violated this provision.
- 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.
- No proof of ownership.
- Having a history or practice of renting units that fail to meet local housing codes.
- Failure to complete all required DHC documentation.
- Has a history of illegal utility service?
- Has delinquent taxes and/or utility services at the unit which is being requested that DHC subsidize.
- The owner or owner's staff and contracted management entity has a history or practice of failing to terminate tenancy of tenants of units assisted under the HCV Program or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest, or another person under the control of any member ofthe 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 DHC or its agents.
- 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.
- Is drug-related criminal activity or violent criminal activity; or
- That includes illegal utility service.

- The owner has a history or practice of not paying Michigan State, or local real estate taxes, fines or assessments, water and sewerage bills for properties assisted under Section 8 or any other federally assisted program.
- HUD informs DHC that the owner has been disbarred, suspended or subject to a limited denial of participation under 24 CFR Part 24.
- HUD informs DHC 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 informs DHC that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirement.

In considering whether to disapprove owners for any of the discretionary reasons listed, DHC will consider any mitigating factors. Such factors may include, but are not limited to the seriousness of the violation in relation to program requirements; the impact on the ability of families to lease units under the program; the health and safety of participating families; etc. DHC considerations will be on a case-by-case basis.

This review may occur during the processing of an initial HAP contract approval.

For purposes of this section, “owner” includes a principal or other interested party.

If DHC disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP Contract for any assisted families that are already living in the owner’s properties unless the owner has violated the HAP Contract for those units

3. Leasing to Relatives [24 CFR 982.306(d)]

DHC will not approve a RFTA if the owner is the parent, child, grandparent, grandchild, sister, brother or has a spousal relationship with of any member of the family. DHC may make an exception as a reasonable accommodation for a disabled family member. The owner is required to certify that no such relationship exists. This restriction applies for the entire time the family receives assistance under the HCV Program for occupancy of a particular unit.

4. Conflict of Interest [24 CFR 982.161]

DHC will not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during their tenure or for one year thereafter:

- Any present or former member or officer of DHC, except a participant commissioner.
- Any DHC employee, or any DHC contractor, subcontractor, or agent, whoformulates policy or who influences decisions with respect to the HCV Program.
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the HCV Program; or
- Any member of the Congress of the United States.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. DHC must submit a waiver request to the appropriate HUD Field Office for determination.

In considering whether to request a conflict-of-interest waiver from HUD, DHC will consider these factors: consistency with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Where DHC has requested a conflict-of-interest waiver, DHC may not execute the HAPContract until HUD has decided on the waiver request.

5. Legal Ownership of Unit

DHC will only enter a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership, e.g., recorded deed of trust, or other recorded legal documents.

## 13-1 E. NON-DISCRIMINATION

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, disability, sexual orientation, marital status, or gender identity in connection with any actions or responsibilities under the HCV Program and the HAP Contract with DHC.

The Owner is subject to HUD's Equal Access Rule once a HAP contract is executed. The owner must cooperate with DHC and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV Program and the HAP Contract with DHC.

## PART II: HAP CONTRACTS

### 13-2 A. OVERVIEW

The HAP Contract represents a written agreement between DHC, and the owner of the dwelling unit occupied by an HCV assisted family. The HAP Contract spells out the owner's responsibilities under the HCV Program, as well as DHC's obligations. Under the HAP Contract, DHC agrees to make HAP payments to the owner on behalf of a specific family occupying a specific unit.

The HAP Contract is used for all HCV Program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in DHC's HCV Program. When DHC has given approval for the family of the assisted tenancy, the owner and DHC will execute the HAP Contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP Contract.

### 13-2 B. HAP CONTRACT CONTENTS

The HAP Contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. The HAP Contract contains three parts.

Part A of the HAP Contract includes basic **contract information** about the name of the tenant family, address of the contract unit, names of all household members, first and last dates of initial lease term, amount of initial monthly rent to owner, amount of initial housing assistance payment, utilities, and appliances to be supplied by owner and tenant, signatures of DHC and owner.

In general, the HAP Contract cannot be modified. However, DHC has the discretion to add language to Part A of the HAP Contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. DHC policy on the amount of security deposit an owner may collect is found in chapter 9.

Part B is the body of the HAP Contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV Program. Most of the requirements contained in Part B of the HAP Contract are outlined elsewhere in this Admin Plan. Topics addressed in Part B include:

- Lease of Contract Unit

- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- PHA Payment to Owner
- Owner Certification
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA and HUD Access to Premises and Owner's Records
- Exclusion of Third-Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

● Foreclosure

Part C of the HAP Contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the HCV Program and the composition of the household, as approved by DHC. The owner must sign the HUD Tenancy Addendum with the prospective tenant as it must be included in its entirety within the executed lease, and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

## 13-2C. HAP CONTRACT PAYMENTS

1. General

During the term of the HAP Contract, and subject to the provisions of the HAP Contract, DHC will make monthly HAP payments to the owner on behalf of the family. DHC will pay HAP at the beginning of the month taking into consideration when funds are received and office closures for holidays. DHC will not research questioned payments until the 10th business day of the month. If a lease term begins after the first of the month, the HAP payment for the first month is pro-rated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP Contract. DHC will notify the owner and the family in writing of any changes in the HAP payment. HAP payments can be made only during the lease term and only while the family is residing in the unit.

The monthly HAP payment by DHC is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus DHC's HAP payment must be equal to the rent specified in the lease.

The family is not responsible for payment of the HAP payment and DHC is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from DHC, the excess amount must be returned immediately. If DHC determines that the owner is not entitled to all or a portion of the HAP, DHC may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other HAP Contracts. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

If an owner accepts HAP for three consecutive months, the owner's acceptance of the HAP payment will be deemed to constitute the owner's acceptance of the amount paid as the correct amount of HAP. After this period, the owner can no longer contest the change based upon the failure to receive a change letter, and DHC will not retroactively revise the HAP. Exceptions to this policy may be granted only upon written approval of the Director of Assisted Housing.

2. Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP Contract, the owner is not entitled to receive housing assistance payments under the HAP Contract. By not returning any direct deposit funds or by endorsing the monthly check from DHC, the owner certifies to compliance with the terms of the HAP Contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive, other than rent to owner, any additional payments or other consideration for rent of the contract unit during the HAP Contract term.

3. Late HAP Payments [24 CFR 982.451(a)(5)]

DHC is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP Contract. After the first two (2) calendar months of the HAP Contract term, the HAP Contract provides for penalties if DHC fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if:

- the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants and the penalties are included within the executed rental agreement.
- it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and
- the owner charges the assisted family for late payment of the family's share of the rent.

DHC is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond DHC's control. In addition, late payment penalties are not required if DHC intentionally delays or denies payment as a remedy to an owner breach of the HAP Contract.

4. Termination of HAP Payments [24 CFR 982.311(b)]

DHC must continue making HAP payments to the owner in accordance with the HAP Contract as long as the tenant continues to occupy the unit and the HAP Contract is not violated.

HAP payments will terminate when the HAP Contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, DHC must continue to make HAP payments to the owner until the owner has obtained a possession judgment or other process allowing the owner to evict the tenant or the tenant voluntarily abandons the unit.

The owner must inform DHC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform DHC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide DHC with a copy of such judgment or order.

After the owner has obtained a possession judgment or other process allowing the owner to evict the tenant, DHC will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform DHC of the date when the family

actually, moves from the unit or the family is physically evicted from the unit and the owner must provide documentation to DHC of such eviction.

## 13-2D. BREACH OF HAP CONTRACT [24 CFR 982.453]

DHC's rights and remedies against the owner under the HAP Contract for owner breach include recovery of any HAP overpayment, suspension of HAP payments, abatement or reduction of the HAP payment, termination of the HAP payment or termination of the HAP Contract. DHC may also obtain additional relief by judicial order or action.

DHC must notify the owner of its determination and provide, in writing, the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. DHC must provide the owner with written notice of any reduction in HAP payments or the termination of the HAP Contract.

Before DHC invokes a remedy against an owner, DHC will evaluate all information and documents available to determine if the HAP Contract has been breached. If relevant, DHC will conduct an audit of the owner's records pertaining to the tenancy or unit. If it is determined that the owner has breached the HAP Contract, DHC will consider all the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP Contract violations.

## 13-2 E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP Contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions. The HAP Contract and the HAP payments made under the HAP Contract terminate if:

- The owner or the family terminates the lease.
- The lease expires.
- DHC terminates the HAP Contract.
- DHC terminates assistance for the family.
- The family moves from the assisted unit
- 180 calendar days have elapsed since DHC made the last HAP payment to the owner.
- The family is absent from the unit for longer than the maximum period permitted by DHC.

- The Annual Contributions Contract (ACC) between DHC and HUD expires; or
- DHC elects to terminate the HAP Contract.

DHC may elect to terminate the HAP Contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program - [24 CFR 982.454].
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see chapter 8.
- The unit does not meet HQS [24 CFR 982.404] – see chapter 8.
- The family breaks up [HUD Form 52641] – see chapter 3.
- The owner breaches the HAP Contract [24 CFR 982.453(b)]

1. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program (a conviction is not required before DHC can find that the landlord violated this provision).
2. The owner has engaged in any drug-related criminal activity or any violent criminal activity (a conviction is not required before DHC can find that the landlord violated this provision)
3. The owner has engaged in actual physical abuse or has threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents. “Threatening” refers to verbal or written threats, or physical gestures, that communicate intent to abuse or commit violence. Abusive or violent behavior” includes verbal behavior, including use of expletives that are generally considered insulting, racial epithets, or other language, written or verbal, that is customarily used to insult or intimidate, as well as physical abuse or violence.

If DHC terminates the HAP Contract, DHC will give the owner and the family written notice. The notice will specify the reasons for the termination and the effective date of the termination. Once a HAP Contract is terminated, no further HAP payments may be made under that HAP Contract except in situations where DHC reverses or extends the contract termination date.

In all cases, the HAP Contract terminates at the end of the calendar month that follows the calendar month in which DHC gives written notice to the owner. The owner is not entitled to any HAP payment after this period and must return to DHC any HAP payment received after this period. However, DHC as normal practice only begins a HAP Contract after the termination date of the previous contract.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP Contract for the assisted unit terminates. A new HAP Contract is required.

When the family moves from an assisted unit into a new unit, the term of the HAP Contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy.

## 13-2 F DEBARRING AND SUSPENDING OWNERS FROM PARTICIPATION IN THE HCV PROGRAM; BANNING OWNERS FROM DHC PREMISES

1. Debarring and Suspending Owners

DHC may debar or suspend an owner from future participation in the program for a period of time commensurate with the seriousness of the offence if:

- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The owner has engaged in any drug-related criminal activity or any violent criminal activity (a conviction is not required before DHC can find that the landlord engaged in drug-related criminal activity or violent criminal activity).
- If an owner is guilty of frequent or serious HAP Contract violations, including repeated failure to enforce lease agreements with assisted families.
- The owner has engaged in actual physical abuse or has threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents. "Threatening" refers to verbal or written threats, or physical gestures, that communicate intent to abuse or commit violence. "Abusive or violent behavior" included verbal behavior, including use of expletives that are generally considered insulting, racial epithets, or other language, written or verbal, that is customarily used to insult or intimidate, as well as physical abuse or violence.

2. Banning Owners

   DHC may also ban an owner from its premises for a period of time commensurate with the seriousness of the offense if an owner has, as defined in 13.2 F.1 above, engaged in actual physical abuse or has threatened abusive or violent behavior toward a resident, a member of the public, or DHC personnel or agents.

   An owner may be simultaneously debarred or suspended from participation and banned from DHC premises.

   DHC will notify owners who are debarred, suspended and/or banned.

## 13-2G. CHANGE IN OWNERSHIP/ASSIGNMENT OF THE HAP CONTRACT

The HAP Contract cannot be assigned to a new owner or a new property management company ("PMC") without the prior, written consent of DHC. An owner under a HAP

Contract must notify DHC, in writing, before a change in the legal ownership of the unit or a change in the PMC. The owner must supply all information as requested by DHC.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP Contract. The agreement between the new owner and the former owner must be in writing and in a form that DHC finds acceptable. The new owner must provide DHC with a copy of the executed agreement. Prior to approval of assignment of a new PMC, the owner and PMC must agree, in writing, to be bound by and comply with the HAP Contract.

Assignment of the HAP Contract will be approved only if the new owner is qualified to become an owner under the HCV Program. Equally, assignment of the HAP Contract will be approved only if the PMC is qualified under the HCV Program.

DHC must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP Contract.

Within 15 business days of receiving the owner's request, DHC will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to DHC that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed.
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, foreign taxpayer number, or the social security number of the new owner.
- The effective date of the HAP Contract assignment.
- A written agreement to comply with the terms of the HAP Contract; and
- Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP Contract, or fails to provide the necessary documents, DHC will terminate the HAP Contract with the old owner no later than the last day of the month in which the old owner held legal control of the subject property. The participant will be notified and advised of the right to relocate with assistance. If the participate remains in the unit while searching, DHC will hold the Housing Assistance Payment (HAP) in escrow. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, DHC will process the leasing in accordance with the policies in Chapter 9.

2. Property Management Company ("PMC")

The property owner may contract with a PMC. The PMC would act as the agent for the property owner.

DHC will allow property owners to contract with a new PMC twice within a 12-month period.

Within 15 days of the anticipated change in a PMC, DHC must be notified in writing by the property owner of the intent to change PMCs and provided copies of all of the following documents:

- Signed Management Agreement between the property owner and the PMC. DHC will not accept unsigned documents.
- Deed to the property filed with the Register of Deeds. The property owner in the deed must match the owner identified in the Management Agreement.
- Signed assignment of Housing Assistance Payment Contract and Lease.
- Notification of assignment to current Resident/HCV Participant

Once DHC is notified of the intent to change PMCs, DHC will advise the property owner of the current status of the unit regarding HQS Inspections, HAP abatements and of the of the current rent distribution between subsidy and tenant rent.

DHC may terminate the HAP Contract if the property owner does not submit the documents required to approve a change in PMCs within 60 days after the property owner submits a notice of intent to change PMCs. The participant will be notified and advised of the right to relocate with assistance.

# CHAPTER 14

# PROGRAM INTEGRITY

## INTRODUCTION

DHC is committed to ensuring that subsidy funds made available to DHC are spent in accordance with HUD requirements.

This chapter covers HUD and DHC policies designed to prevent, detect, investigate, and resolve instances of program abuse or fraud. It also describes the actions that will be taken in the case of unintentional errors and omissions.

**Part I: Preventing, Detecting, and Investigating Errors and Program Abuse**. This part presents DHC policies related to preventing, detecting, and investigating errors and program abuse.

**Part II: Corrective Measures and Penalties.** This part describes the corrective measures DHC must and may take when errors or program abuses are found.

## PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

### 14-1A. OVERVIEW

DHC anticipates that the vast majority of families, owners, and DHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors.

To ensure DHC's HCV Program is administered effectively and according to the highest ethical and legal standards, DHC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

DHC will discuss program compliance and integrity issues with participants during the voucher briefing sessions described in Chapter 5.

DHC will provide each applicant and participant with the publication, *Things You Should Know (HUD-1140-OIG) that* explains the types of actions a family must avoid and the penalties for program abuse.

DHC will place a warning statement about the penalties for fraud, as described in the False Statement Act, U.S.C. 1001 and 1010, on key DHC forms and form letters that request information from a family or owner.

DHC staff will be required to review and explain the contents of all HUD- and DHC-required forms before requesting family member signatures.

DHC will require first-time owners, or their agents, to participate in a briefing session on HAP Contract requirements.

DHC will provide each DHC employee with the necessary training on program rules and DHC's standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. P*rogram abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

## 14-1B. DETECTING ERRORS AND PROGRAM ABUSE

In addition to taking steps to prevent errors and program abuse, DHC will use a variety of activities to detect errors and program abuse.

1. Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires DHC to review a random sample of participant records annually to determine if the records conform to HCV Program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985].

In addition to the SEMAP quality control requirements, DHC will employ a variety of methods to detect errors and program abuse.

DHC routinely will use HUD's Enterprise Income Verification (EIV) system to compare with family-provided information.

At each annual re-examination, current information provided by the family will be compared to information provided at the last annual re-examination to identify inconsistencies and incomplete information.

2. Independent Audits and HUD Monitoring

OMB Circular A-133 requires that DHC annually have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of DHC activities and notifies DHC of errors and potential cases of HCV Program abuse.

DHC will use the results reported in any IPA or HUD monitoring reports to identify potential HCV Program abuses as well as to assess the effectiveness of DHC's error detection and abuse prevention efforts.

3. Individual Reporting of Possible Errors and Program Abuse

DHC will encourage staff, HCV Program participants, and the public to report possible HCV Program abuse.

## 14-1 C. INVESTIGATING ERRORS AND PROGRAM ABUSE

1. When DHC Will Investigate

DHC will review referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DHC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

DHC will investigate inconsistent information related to the family that is identified through file reviews and the verification process.

2. Consent to Release of Information [24 CFR 982.516]

DHC may investigate possible instances of error or abuse using all available DHC and public records. If necessary, DHC will require HCV families to give consent to the release of additional information.

3. Analysis and Findings

DHC will base its evaluation on a preponderance of the evidence collected during its investigation. *Preponderance of the evidence* is defined as evidence which is greater weight of the evidence; that is, evidence that you believe because it outweighs or overbalances in your mind the evidence opposed to it. A preponderance means evidence that is more probable, more persuasive, or of greater probative value. It is the quality of the evidence that must be weighed. Quality may, or may not, be identical with quantity.

For each investigation DHC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed DHC, and (3) what corrective measures or penalties will be assessed.

4. Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether DHC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

In the case of family-caused errors or program abuse, DHC will take into consideration (1) the seriousness of the offense, (2) the extent of participation or culpability of individual family members, (3) any special circumstances surrounding the case, (4) any mitigating circumstances related to the disability of a family member, (5) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, DHC will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

5. Notice and Appeals

DHC will inform the relevant party in writing of its findings and remedies within 20 business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which DHC determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable.

## PART II: CORRECTIVE MEASURES AND PENALTIES

## 14-2 A. SUBSIDY UNDER- OR OVERPAYMENTS

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment (HAP) to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

1. Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, DHC will promptly, prospectively correct the HAP payment, family share, and any utility reimbursement.

Increases in the family share will be implemented only after the family has received a 30-daynotice unless the error was caused by the family.

Any decreases in family share will become effective the first of the month following the discovery of the error.

2. Reimbursement

Whether the family or owner is required to reimburse DHC or DHC will make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the sectionsthat follow.

## 14-2 B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE

Family obligations and general administrative requirements for participating in the HCV Program are discussed throughout this Admin Plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DHC to use incorrect information provided by a third-party.

1. Family Reimbursement to DHC

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. DHC may, but is not required to, offer the family a repayment agreement. If the family fails to repay the excess subsidy, DHC will terminate the family's assistance in accordance with the policies in Chapter 12.

2. DHC Reimbursement to Family

DHC will not reimburse the family for any underpayment of assistance when the underpayment is caused by the family.

3. Prohibited Actions

- An applicant or participant in the HCV Program must not knowingly: Make a false statement to DHC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c)(iv)].

- Evidence of family HCV Program abuse include but is not limited to Payment to the owner in excess of amounts authorized by DHC for rent, security deposit, and/or additional services.
- Offering bribes or illegal gratuities to the DHC Board of Commissioners, employees, contractors, or other DHC representatives.
- Offering payments or other incentives to the owner or a third-party as an inducement for the third-party to make false or misleading statements to DHC on the family's behalf.
- Use of a false name or the use of falsified, forged, or altered documents.
- Intentional misreporting of family information or circumstances, e.g., income, family composition.
- Omitted facts that were obviously known by a family member, e.g., not reporting employment income.
- Admission of HCV Program abuse by an adult family member.

DHC may determine other actions to be HCV Program abuse based upon a preponderance of the evidence.

4. Penalties for Program Abuse

In the case of HCV Program abuse caused by a family, DHC may, at its discretion, impose any of the following remedies.

- DHC may require the family to repay excess subsidy amounts paid by DHC.

- DHC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit.
- DHC may deny or terminate the family's assistance.
- DHC may refer the family for state or federal criminal prosecution.

## 14-2C. OWNER-CAUSED ERROR OR PROGRAM ABUSE

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit, e.g., the number of bedrooms, which utilities are paid by the family. It also includes accepting duplicate HAP payments for the same unit in the same month, or after a family no longer resides in the unit.

1. Owner Reimbursement to DHC

In all cases of overpayment of subsidy caused by the owner, the owner must repay DHC any excess subsidy received. DHC may recover overpaid amounts by withholding HAP payments due for subsequent months from any HAP contracts the owner has with DHC, or if the debt is large, DHC may allow the owner to pay in installments over a period of time.

2. Prohibited Owner Actions

An owner participating in the HCV Program must not:

- Make any false statement to DHC [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

Evidence of owner HCV Program abuse includes, but is not limited to:

- Charging the family rent above or below the amount specified by DHC.
- Charging a security deposit other than that specified in the family's lease.
- Charging the family for services that are provided to unassisted tenants at no extra charge.
- Knowingly accepting HAP payments for any month(s) after the family has vacated the unit.
- Knowingly accepting incorrect or excess HAP payments.
- Offering bribes or illegal gratuities to the DHC Board of Commissioners, employees, contractors, or other DHC representatives.
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to DHC.
- Residing in the unit with an assisted family.
- Any violation of the HAP Contract.

DHC may determine other actions to be HCV Program abuse based upon a preponderance of the evidence.

3. Remedies and Penalties

When DHC determines that the owner has committed program abuse, DHC may take any of the following actions:

- Require the owner to repay excess HAP payments.
- Terminate the HAP Contract.
- Bar the owner from future participation in any DHC programs.
- Refer the case to state or federal officials for criminal prosecution.

## 14-2D. DHC-CAUSED ERRORS OR PROGRAM ABUSE

Incorrect subsidy determinations by DHC staff include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation. Upon discovery of a DHC-caused error, DHC will reimburse a participant/family for any underpayment of subsidy resulting from the error.

1. Repayment to DHC

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by DHC staff.

2. DHC Reimbursement to Family or Owner

DHC will reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse.

3. Prohibited Activities

Evidence of DHC staff HCV Program abuse include, but is not limited to:

- Failing to comply with any HCV Program requirements for personal gain.
- Failing to comply with any HCV Program requirements as a result of a conflict-of-interest relationship with any applicant, participant, or owner.
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to DHC.
- Disclosing confidential or proprietary information to outside parties.
- Gaining profit as a result of insider knowledge of DHC activities, policies, or practices.
- Misappropriating or misusing HCV funds.

- Destroying, concealing, removing, or inappropriately using any records related to the HCV Program.
- Committing any other corrupt or criminal act in connection with the HCV Program or any federal housing program.

DHC may determine other actions to be HCV Program abuse based upon a preponderance of the evidence.

## 14-2E. CRIMINAL PROSECUTION

When DHC determines that program abuse by an owner, family, or DHC staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, DHC will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV Program will be referred to the appropriate local, state, or federal entity.

## 14-2 F. FRAUD AND PROGRAM ABUSE RECOVERIES

DHC will, as permitted under HUD regulations, retain a portion of program fraud losses that DHC recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

Per 24 CFR 792.202, HUD permits DHC to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that DHC incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555. If HUD incurs costs on behalf of DHC related to the collection, these costs must be deducted from the amount retained by DHC.

# CHAPTER 15

# SPECIAL HOUSING TYPES AND THE HCV HOMEOWNERSHIP PROGRAM [24 CFR 982 Subpart M]

## PART I: SPECIAL HOUSING TYPES

With the exception of the HCV Homeownership Program (HOP), DHC will not permit families to use any special housing types, unless use is needed as a reasonable accommodation, so the HCV Program is readily accessible to a disabled person.

If DHC grants a reasonable accommodation for the use of a special housing type other than the HCV Homeownership Program, DHC shall comply with applicable HUD requirements related to the special housing type for which use is granted.

## PART II: HCV HOMEOWNERSHIP PROGRAM [24 CFR 982.625 through 982.643]

### 15-2A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option must be an existing participant in DHC's HCV Program for one (1) year and must be in good standing before being approved to participate in the DHC Homeownership Program.

There is only one form of homeownership assistance currently available that DHC may offer under this option and that is monthly homeownership assistance payments. DHC offers homeownership assistance to persons with disabilities.

DHC demonstrates capacity to operate an HCV homeownership program by requiring program applicants to meet eligibility criteria defined further in this chapter

### 15-2 B. FAMILY ELIGIBILITY [24 CFR 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. DHC has also established additional initial requirements.

- The family must be a current participant in the HCV Program and must have been a participant in good standing for at least one year.
- The family must qualify as a first-time homeowner or may be a cooperative member.
- Minimum wage income limit requirement to qualify for the program will 200% of the poverty for the household size at the time of homeownership program approval.

- For elderly/disabled families the minimum income limit requirement to qualify for the HOP is no less than 30% of the area median income for the household size.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis, i.e., not less than an average of 30 hours per week; and has been continuously so employed during the year before commencement of homeownership assistance for the family. Continuously employed is defined as employment in which a break does not exceed two months.
- The employment requirement does not apply to elderly or disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, DHC must grant an exemption from the employment requirement if DHC determines that it is needed as a reasonable accommodation.
- The family has not previously defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares before commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares before commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR 982.631(c).
- The family has had no family-caused violations of HUD's Housing Quality Standards within the past year.
- The family does not owe money to DHC or any other PHA. The debt must be paid in full before consideration into the HOP.
- The family has not committed any serious or repeated violations of a DHC-assisted lease within the past year.
- Family must meet pre-selection criteria in order to be considered for the HOP. In addition to the above criteria, a family must:
    - Meet the minimum credit score established by DHC which will be reviewed and set annually.
    - Have a 12-month on time bill payment history.

## 15-2C. SELECTION OF FAMILIES [24 CFR 982.626]

Applicants for the HOP are not required to participate in DHC's Family Self Sufficiency ("FSS") program in order to participate in the HOP. DHC limits the HOP size to 5% of its annual voucher allocation. FSS participants with an interim goal of homeownership shall have a preference for participation in the homeownership program. Participants in an Individual Development Account ("IDA") program administered by an agency other than DHC will also receive a preference for homeownership assistance in the event applicants for homeownership assistance exceed the 5% limitation.

Within preference and non-preference categories, families will be selected according to the date and time of their application for participating in the homeownership program.

All families must meet HOP and HCV program eligibility requirements as defined in this Admin Plan.

## 15-2 D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, DHC will determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
    - A current public housing or Indian housing rental 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; or
    - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale. Under construction requires that at least the footers are poured and in place. DHC may require a copy of the approved environmental certificate.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by DHC for Housing Quality Standards (HQS) and also by an independent inspector designated by the family for the systems, structure, and other requirements for the independent inspection.
- The unit must meet HQS before the time of closing.
- For a unit where the family will not own fee title to the real property such as a manufactured home, the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For DHC-owned units all of the following conditions must be satisfied:

- DHC informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a DHC-owned unit is freely selected by the family without DHC pressure or steering.
- The unit is not an ineligible housing unit.
- DHC obtains the services of an independent agency to (1) inspect the unit for compliance with HQS, (2) review the independent inspection report, (3) review the contract of sale, (4) determine the reasonableness of the sales price and any DHC-provided financing. All of these actions must be completed in accordance with program requirements. DHC will obtain the services of a neighboring PHA to perform this service so long as the independent agency is operating an HCV Homeownership Program.

DHC will not approve the unit if DHC has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

## 15-2E. ADDITIONAL DHC REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 982.629]

It is the family's responsibility to find a home that meets the criteria for HCV homeownership assistance. DHC will issue a HOP voucher once approved for the HOP.

The family will be allowed 90 days to identify a unit and submit a sales contract to DHC for review. The family will be allowed an additional 90 days to close on the home. DHC may grant extensions a 30-day extension.to either of the 90-day periods for good cause. The length of the extension(s) will be determined on a case-by-case basis, but in no case will an extension exceed either 90-day period beyond a total of 120 days. The maximum amount of time a family will be given to locate and complete the purchase of a home under the homeownership option is 240 days.

All requests for extensions must be submitted in writing to DHC before the expiration of the period for which the extension is being requested. DHC will approve or disapprove the extension request within 10 business days. The family will be notified of DHC 's decision in writing.

The family will be required to report their progress on locating and purchasing a home to the DHC every 30 days until the home is purchased.

If the family cannot complete the purchase of a unit within the maximum required time frame and is not receiving rental assistance under a HAP Contract at the time the search and purchase time period expires, the family will be allowed to lease a unit and remain in the rental program, so long as they are still in good standing with the HCV Program.

During the homeownership process, the family will continue to receive HCV rental assistance in accordance with any applicable lease and HAP Contract until the family vacates the rental unit for its purchased home.

## 15-2 F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete a minimum of the regular eight hours of pre-purchase homeownership counseling and any individually required counseling sessions.

DHC or its counseling partner will require, at a minimum, the following pre-assistance counseling program:

- Home maintenance (including care of the grounds).
- Budgeting and money management.
- Credit counseling.
- How to negotiate the purchase price of a home.
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing.
- How to find a home, including information about homeownership opportunities, schools, and transportation in DHC's jurisdiction.
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

DHC will adapt the subjects covered in pre-assistance counseling to local circumstances and the needs of individual families. DHC will further require families to attend one-on-one counseling to make sure they understand the obligations and are fully prepared to become homeowners.

DHC or its counseling partner will offer additional counseling after commencement of homeownership assistance (ongoing counseling) for as long as DHC provides subsidy assistance. This is part of the homeownership program and attendance remains a participant's obligation in order to continue to be assisted by DHC.

DHC will ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

## 15-2 G. HOME INSPECTIONS, CONTRACT OF SALE, AND DHC DISAPPROVAL OF SELLER [24 CFR 982.631]

*1. Home Inspections*

DHC may not commence monthly homeownership assistance payments for a family until DHC has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector's report must be submitted to DHC for review. The inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer, or another professional who is readily accepted by the local lending community that is participating in the HCV Homeownership Program. DHC may not require the family to use an independent inspector selected by DHC. The independent inspector may not be a DHC employee or contractor, or other person under control of DHC.

DHC will review the independent inspection report in 10 business days and based on the presence of major physical problems, DHC may disapprove the purchase of the home. If DHC disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval. DHC may disapprove a unit for assistance based on information in the independent inspection report even if the unit was found to comply with HQS.

When a family locates a home, they wish to purchase and submits a copy of their purchase offer/contract, DHC will conduct a HQS inspection within 10 business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program and before the closing date.

*2. Contract of Sale*

Before commencement of monthly HAP payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give DHC a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser.
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
- Provide for an HQS inspection.
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.
- Provide the purchaser is not obligated unless the necessary financial mortgage can be obtained.
- Provide that the purchaser is not obligated to pay for any necessary repairs.
- Provide that if the purchase is not approved by DHC, any deposit the purchaser made will be returned by the seller; and
- Provide that the purchaser is not obligated unless conditions are acceptable to DHC.

*3. Disapproval of a Seller*

In its administrative discretion, DHC may deny approval of a seller for the same reasons DHC may disapprove an owner under the regular HCV program [see 24 CFR 982.306(c)].

## 15-2H. FINANCING [24 CFR 982.632]

DHC will not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms.

As a check against predatory lending, DHC will review the financing and refinancing of each purchase transaction, including estimated closing costs. DHC will not approve loans with features such as balloon payments, adjustable-rate mortgages, and unusually high interest rates, which DHC considers to be 5 points above prime. DHC will not approve any loans that contain predatory practices. DHC also will not approve "seller financing" or "owner held" mortgages. Beyond these basic criteria, DHC will rely on the lenders or the secondary market to determine the loan that will be affordable to program participants. Lenders must comply with mortgage standards consistent with HUD/FHA/Fannie Mae/Freddie Mac requirements. Financing must be submitted and approved by DHC within 90 days but at least 30 days before close of escrow.

The mortgage the family applies for may require a minimum down of at least 3% of the sales price with 2% of the down payment coming from the purchaser's personal funds. DHC will not require the family have more than the minimum of 2% of their money in the transaction. However, in cases where a lender is requiring a larger amount, the family must be held to the underwriting guidelines set by their lending institution. DHC will consider waiving or reducing the minimum down payment requirement in cases where the family is using down payment assistance grants in excess of $3,500 to purchase the unit. Waivers will be granted on a case-by-case basis at the discretion of the Director of Assisted Housing Department or his/her designee. Such waivers shall be in writing.

DHC may approve a family's request to utilize up to 50% of its FSS escrow account for down payment and/or closing costs when purchasing a unit under the HOP provided that homeownership was identified as an interim goal.

## 15-2 I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, DHC will not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to DHC the HCV homeownership assistance for the month when the family moves out.

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 program.

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 24 CFR 982.551 (h) and (i).
- The family must supply information to DHC, or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by DHC or HUD concerning mortgage financing or refinancing, sale, or transfer of anyinterest in the home, or homeownership expenses.
- The family must notify DHC before moving out of the home.
- The family must notify DHC 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 comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership program: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).
- The family will comply with all post assistance counseling requirements.
- The family will obtain DHC approval on all financing and refinancing and provide DHC with documentation of the use of the equity funds, so long as they are being assisted under the homeownership program.
- For non-elderly/non-disabled families; the family shall maintain at least one adult in the household that maintains full-time employment, which is considered at least 30 hours per week. DHC will provide for temporary hardship in case of lay-offs or other unusual circumstances in the local economy.
- The family must, at annual re-examination, document that the family is current on mortgage, insurance, taxes, and utility payments.

• If a family with employment income experiences a decrease to less than 30 hours per week of employment for at least one adult family member, the family must report such a decrease within 10 days and the family must report, at least quarterly, actions that demonstrate employment and or training toward employment. If a family has not experienced an increase in wage income within 180 days, the family may be required to participate in FSS (if not previously enrolled) or participate in and complete job skill and training in order to garner new employment unless the family provides documentation that disability has been applied for and is pending. If the head of household is the only employed family member, s/he may not be eligible for full-reporting and training will continue until employment income has been re-established.

Following the home purchase, DHC will conduct HQS inspections, for the next three (3) years. After three (3) years, no other annual inspections shall be performed on HOP

participants. However, DHC may elect to conduct HQS inspections at any time provided notice is given in accordance with HQS notice requirements in this Admin Plan. If at any time DHC determines there exists failed health and safety items, the family must correct those items within 24-hours and be re-inspected. Additionally, if DHC observes more than ten (10) non-health and safety failed items, those items must be corrected within 30-days unless DHC grants an extension. The family should use their maintenance escrow, which is included in their monthly calculation of assistance, for these repairs. If repairs are not made, the family will be sent a program and contract termination notice in accordance with DHC policy for non-compliance of HQS.

At annual re-examination the family must bring in proof that the mortgage, taxes, and utilities are current or that the family has a repayment agreement, in good standing, with the creditor.

## 15-2 J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members, as described below, shall not receive homeownership assistance for more than 10 years.

The 10-year maximum term applies to any member of the family who:

- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable provided the family is otherwise eligible to receive homeownership assistance.

If the family has received such assistance for different homes, or from a different PHA, the total of such assistance terms is subject to the maximum term described in this part.

## 15-2 K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]

The monthly homeownership assistance payment is the lower of the 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, DHC will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described in elsewhere in this Admin Plan for the HCV Program.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

DHC's housing assistance payment will be paid directly to the lender. DHC may make an exception if the family requests the payment to be made directly to them and this arrangement is acceptable to the mortgage company. If DHC makes the payment to the family, the family will be responsible for making the payment to the lender. The family, at its option, can also place any excess funds in an escrow account that can be used for repairs or other homeownership expenses.

DHC will allow the following homeownership expenses:

- **Monthly homeownership payment**: This includes principal and interest on initial mortgage debt, taxes, and insurance, and any mortgage insurance premium, if applicable.
- **Utility Allowance:** DHC's utility allowance for the unit, based on the current HCV utility allowance schedule.
- **Monthly maintenance allowance:** The monthly maintenance allowance will be the annual maintenance allowance, divided by twelve. The annual major repair/replacement allowance will be .1.5% of the purchase price of the home.

Homeownership expenses for a cooperative member may only include amounts allowed by DHC to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home.
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt.
- Homeowner's insurance must include replacement value of the home.
- DHC allowance for maintenance expenses; and
- DHC utility allowance for the home.

## 15-2L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and DHC policies, a family may exercise portability if the receiving PHA is administering an HCV homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its HCV Program, or bill DHC.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify DHC if the family has purchased an eligible unit under the homeownership program or if the family

is unable to purchase a home within the maximum time established by the receiving PHA.

## 15-2 M. 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 HCV rental assistance or with HCV homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

DHC will deny permission to move to a new unit with continued HCV assistance as follows:

- Lack of funding to provide continued assistance.
- At any time, DHC may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with DHC policy regarding number of moves within a 12-month period.

DHC will deny the family permission to move to a new unit with continued HCV rental assistance if:

- The family defaulted on their mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

For families participating in the homeownership program, requests to move will be approved and/or denied in accordance with the policies stated in Chapter 10.

DHC may require additional counseling of any families that moves with continued assistance.

Families may participant, only once with continued assistance, on the HOP. Moves with continued assistance do not extend the overall term of the HOP voucher nor does refinancing.

## 15-2N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]

At any time, DHC may deny or terminate homeownership assistance in accordance with HCV Program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

DHC may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633.

DHC must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage, whether FHA insured or non-FHA, securing debt incurred to purchase the home, or any refinancing of such debt or if the home is sold under tax foreclosure.

DHC will terminate a family's homeownership assistance if the family violates any of the homeowner obligations, as well as for any of the reasons listed in the Statement of Homeownership Obligation Housing Choice Voucher Homeownership Program.

In making its decision to terminate homeownership assistance, DHC will consider alternatives as described in Chapter 12 and other factors described in Chapter 12. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate assistance.

Termination notices will be sent in accordance with the requirements and policies set forth in Chapter 12.

## 15-2O. DEFAULT

If the family defaults on the home mortgage loan, the participant will not be able to use the HOP voucher for rental housing but may reapply for the HCV waiting list if the waiting list is open.

## 15-2P. RECAPTURE

DHC shall not impose or enforce any requirement for the recapture of voucher homeownership assistance on the sale or refinancing of a home purchased with assistance under the homeownership option unless there is an act of fraud.

# CHAPTER 16
# PROGRAM ADMINISTRATION

## INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this Admin Plan. The policies are discussed in seven parts as described below:

**Part I:** Administrative Fee Reserve. This part describes DHC's policies with regard to oversight of expenditures from its administrative fee reserve.

**Part II:** Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

**Part III:** Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings and for informal hearings regarding citizenship status.

**Part IV:** Owner or Family Debts to DHC. This part describes policies for recovery of monies that DHC has overpaid on behalf of families, or to owners, and describes the circumstances under which DHC will offer repayment agreements to owners and families. Also, discussed are the consequences for failure to make payments in accordance with a repayment agreement.

**Part V:** DHC Options When There is Insufficient HAP Funding. This part describes DHC's policy for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families and DHC's policy on the options available to it in the event there is insufficient funding.

**Part VI:** Record-Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and participants and record retention policies DHC will follow.

**Part VII:** Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes DHC's responsibilities for reporting, data collection and record keeping relative to children with environmental intervention blood lead levels that are less than six (6) years of age and are receiving HCV assistance.

**Part VIII:** Violence Against Women Reauthorization Act of 2013 (VAWA). This part describes DHC's responsibilities related to notifying applicants and participants of their VAWA rights and notifying owners and managers of their obligations under VAWA.

**Part IX:** Protecting Tenants at Foreclosure Act (PTFA). This part describes DHC's responsibilities relative to notifying participants and owners of their rights and obligations under the PTFA.

### PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

DHC must maintain an administrative fee reserve for the HCV Program to pay HCV Program administrative expenses in excess of administrative fees paid by HUD for DHC's fiscal year. If funds in the administrative fee reserve are not needed to cover DHC's administrative expenses, DHC may use these funds for other housing purposes permitted by federal, state, and local law.

If DHC has not adequately administered an HCV Program, HUD may prohibit use of fundsin the administrative fee reserve and may direct DHC to use funds in the reserve to improve administration of the HCV program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes. HUD requires DHC's Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the administrative fee reserve without specific approval. DHC has established $100,000 as the maximum amount that can be charged against the administrative fee reserve before Board approval is required.

## PART II: SETTING PROGRAM STANDARDS AND SCHEDULES

## 16-2A. OVERVIEW

Although many of the HCV Program's requirements are established centrally by HUD, the HCV Program's regulations recognize that some flexibility is required to allow DHC to adapt the program to local conditions. This part discusses how DHC establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other chapters. The schedules and standards discussed here include:

- Payment Standards, which dictate the maximum subsidy a family can receive (application of the payment standards is discussed in Chapter 6); and
- Utility Allowances, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of utility allowances is discussed in Chapter 6).

Copies of the payment standard and utility allowance schedules are available for review in DHC's offices during normal business hours and on the DHC website. Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

DHC will maintain documentation to support its annual review of payment standards

and utility allowance schedules. This documentation will be retained for at least 3 years.

## 16-2B. PAYMENT STANDARDS [24 CFR 982.503]

The payment standard sets the maximum subsidy payment a family can receive from DHC each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40$^{th}$ percentile of rents in the market area.

DHC must establish a payment standard schedule that establishes payment standard amounts for each FMR area within DHC's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, DHC may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, DHC is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

1. Updating Payment Standards

When HUD updates its FMRs, DHC must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require DHC to make further adjustments if it determines that rent burdens for assisted families in DHC's jurisdiction are unacceptably high [24 CFR 982.503(g)].

DHC will review the appropriateness of the payment standards on an annual basis when the new FMRs are published. In addition to ensuring the payment standards are always within the "basic range", DHC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule.

DHC may elect to adopt the use of Small Area Fair Market Rents (SAFMRs) in an entire metropolitan area or specified zip codes. In doing so, DHC will consider whether to apply the SAFMRs to the PBV program within a designated metropolitan area or specified zip code. DHC will also consider the adoption of neighboring PHAs and MSHDA as it relates to SAFMRs.

### a. Funding Availability

DHC will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. DHC will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

### b. Rent Burden of Participating Families

Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, DHC will consider increasing the payment standard. In evaluating rent burdens, DHC will not include families renting a larger unit than their family unit size.

**c. Quality of Units Selected**

DHC 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.

**d. Changes in Rent to Owner**

DHC may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size. During budget shortfalls DHC reserves the right to freeze any rental increases to owners.

**e. Unit Availability**

DHC will review the availability of units for each unit size particularly in areas with low concentrations of poor and minority families.

**f. Lease-up Time and Success Rate**

DHC will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing. Changes to payment standard amounts will be effective within 60 days of the proposed change, based on the proposed FMRs, it appears that one or more of DHC's current payment standard amounts will be outside the basic range when the final FMRs are published, and that the FMRs have not increased and/or decreased in excess of 5%. If DHC has already processed re-examinations that will be effective on or after the proposed effective date of the payment standard changes DHC may make adjustments to those payment standards at the next annual re-examination.

2. Exception Payment Standards [982.503(c)]

DHC must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount, in accordance with HCV Program requirements, for all units, or for all units of a given size, leased by program families in the exception area. If DHC has any units within its jurisdiction in the exception area, DHC may use the HUD-approved exception payment standard amount. However, the

total population of all HUD-approved exception areas in an FMR area may not include more than 50% of the population of the FMR area.

3. Unit-by-Unit Exceptions [24 CFR 982.503(c) (2) (ii)]

Unit-by-unit exceptions to DHC's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a disabled person. This type of exception does not affect DHC's payment standard schedule.

DHC may approve a Voucher Payment Standard of not more than 120% of the FMR if requested as a reasonable accommodation by a family that includes a person with a disability.
A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, DHC must determine that:

- There is a shortage of affordable units that would be appropriate for the family.
- The unit has features which meet the needs of the family or family member with disabilities
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable as required by 24 CFR 982.597.

4. "Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]

If a substantial percentage of families have difficulty finding a suitable unit, DHC may request a "success rate payment standard" that applies to its entire jurisdiction. If approved by HUD, a success rate payment standard allows DHC to set its payment standards at 90-110% of a higher FMR, the 50th, rather than the 40th percentile FMR. To support the request, DHC will demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants.
- DHC had established payment standards for all unit sizes, and for the entire jurisdiction, at 110% of the published FMR; and
- DHC had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, DHC may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of DHC's jurisdiction within the FMR area.

5. Decreases in the Payment Standard Below the Basic Range

[24 CFR 982.503(d)]

DHC must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40% of HCV Program participants exceeds 30% of adjusted monthly income.

## 16-2 C. UTILITY ALLOWANCES [24 CFR 982.517]

DHC's-established utility allowance schedule is used in determining family share and DHC subsidy. DHC must maintain a utility allowance schedule for:

- all tenant-paid utilities,
- the cost of tenant-supplied refrigerators and ranges, and
- other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, DHC must use normal patterns of consumption for the community as a whole, and current utility rate. The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, DHC must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services. The cost of each utility and housing service must be stated separately by unit size and type.

1. Reasonable Accommodation

HCV Program regulations require DHC to approve a utility allowance amount higher than shown on DHC's schedule if a higher allowance is needed as a reasonable accommodation for a disabled family member.

2. Utility Allowance Revisions

DHC will review its schedule of utility allowances each year and update these schedules on an annual basis and must revise the schedule if there has been a change of 10% or more in any utility rate since the last time the allowance for that utility was revised. DHC

must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

## PART III: INFORMAL REVIEWS AND HEARINGS

### 16-3 A. OVERVIEW

When DHC makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal review; for participants, or for applicants denied admission because of citizenship issues, the appeal takes the form of an informal hearing. DHC is required to include in its Admin Plan, informal review procedures for applicants and informal hearing procedures for participants [24 CFR 982.54(d) (12) and (13)].

### 16-3 B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 CFR 982.554] and need not be as elaborate as the informal hearing requirements.

1. Decisions Subject to Informal Review

DHC will give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24CFR 982.552(a) (2)]:

- Denying listing on DHC's waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence, stalking or sexual assault.

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by DHC.
- General policy issues or class grievances.
- A determination of the family unit size under DHC's subsidy standards.
- DHC's determination not to approve an extension of a voucher term.
- DHC's determination not to grant approval of the tenancy.
- DHC's determination that the unit is not in compliance with the HQS; and
- DHC's determination that the unit is not in accordance with the HQS due to family size or composition.

2. Notice to the Applicant [24 CFR 982.554(a)]

DHC will give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for DHC's decision and will also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review and that this request must be received within ten (10) business days from the date that the document was sent regarding the request for an informal review.

3. Requesting an Informal Review

A request for an informal review must be made in writing and delivered to DHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of DHC's denial of assistance.

When an informal review is required, DHC will schedule the hearing in a reasonably expeditious manner.

4. Informal Review Procedures [24 CFR 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review or a subordinate of this person. The applicant will be provided an opportunity to present written or oral objections to the decision of DHC.

The person conducting the review will make a recommendation to DHC, however, DHC is responsible for making the final decision as to whether assistance should be granted or denied.

Remote Informal Reviews

All policies and processes for remote informal reviews will be conducted in accordance with due process requirements and in compliance with HUD regulations.

DHC has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

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

**Conducting Remote Informal Reviews**

DHC will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via

videoconferencing, DHC will ensure that all applicants, applicant representatives, DHC representatives and the person conducting the informal review can adequately access the platform (i.e., hear, be heard, see, and be seen). If any applicant, applicant representative, DHC representative, or person conducting the informal review is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.

Whether the informal review is to be conducted via videoconferencing or telephone call-in, DHC will provide all parties login information and/or conferencing call-in information before the review.

5. Informal Review Decision [24 CFR 982.554(b)]

DHC must notify the applicant of DHC's final decision including a brief statement of the reasons for the final decision.

In rendering a decision, DHC will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice.
- The validity of grounds for denial of assistance.
- The validity of the evidence.
- If the, based upon a preponderance of the evidence supports the grounds for denial, and the denial is discretionary, DHC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.
- DHC will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 30 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.
- If the decision to deny is overturned as a result of the informal review, processing for admission will resume.
- If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

## 16-3 C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]

DHC will offer an informal hearing for certain DHC determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted and is currently assisted under a DHC Section 8 assistance program. The purpose of the informal hearing is to consider whether DHC decisions related to the family's circumstances are in accordance with the law, HUD regulations and DHC's policies. DHC is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

At the discretion of DHC, an outstanding HAP contract may be terminated, and the family granted the ability to move during the informal hearing process if DHC deems the move to be involuntary.

DHC will not allow family initiated moves during the informal hearing process. At the discretion of DHC, a family may be granted the ability to move during the informal hearing process if DHC deems the move to be involuntary. An involuntary move includes, but is not limited to, the following circumstances:

1. Landlord caused abatements where the move process is triggered under Chapter 8.
2. VAWA is triggered under Chapter 16.
3. The landlord opts out of the HAP Contract at the Annual Re-Examination.
4. The unit is in foreclosure or foreclosure proceedings.
5. The landlord has breached the HAP contract and has been removed from the program by DHC.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP Contract or approve a lease
- Terminating HAP payments under an outstanding HAP Contract
- Refusing to process or provide assistance under portability procedures

1. <u>Decisions Subject to Informal Hearing</u>

Circumstances for which DHC must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from DHC's utility allowance schedule.
- A determination of the family unit size under the PHA's subsidy standards.
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under DHC's subsidy standards, or DHC's determination to deny the family's request for exception from the standards.
- A determination to terminate assistance for a participant family because of the family's actions or failure to act.
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR984.303(i)]; and
- A determination to deny admission based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by DHC.
- General policy issues or class grievances.
- Establishment of DHC's schedule of utility allowances for families in the program.
- DHC's determination not to approve an extension or suspension of a voucher term.
- DHC's determination not to approve a unit or tenancy.
- DHC's determination that a unit selected by the applicants is not in compliance with HQS
- DHC's determination that the unit is not in accordance with HQS because of family size.
- DHC's determination by DHC to exercise or not to exercise any rights or remedy against an owner under a HAP contract

DHC will only offer participants the opportunity for an informal hearing when it is required by regulations.

**Remote Informal Hearings**

DHC's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, DHC's policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.

DHC has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, DHC will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. DHC will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

**Conducting Informal Hearings Remotely**

In conducting any informal hearing remotely, DHC shall ensure due process and that all parties are able to have full access to the hearing.

DHC will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, DHC will ensure that all participants, participant representatives, advocates, witnesses, DHC representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).

If any participant, representative, advocate, witness, DHC representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in.

Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, DHC will provide all parties login information and/or telephone call-in information before the hearing.

2. Informal Hearing Procedures

### a. Notice to the Family [24 CFR 982.555(c)]

When DHC makes a decision that is subject to informal hearing procedures, DHC will inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, DHC will notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to DHC's subsidy standards, the notice will contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

In cases where DHC makes a decision for which an informal hearing must be offered, the notice to the family will include all the following:

- The proposed action or decision of DHC.
- A brief statement of the reasons for the decision including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for DHC's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- Family's ability to request a reasonable accommodation.
- To whom the hearing request should be addressed.
- A copy of DHC's hearing procedures; and
- That the family may request a remote informal hearing

If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the family informing them of the right to request an informal hearing, the family will be notified that the informal hearing will be conducted remotely. The family will be

informed of the processes involved in a remote informal hearing and that the PHA will provide technical assistance, if needed, before the informal hearing

### b. Scheduling an Informal Hearing [24 CFR 982.555(d)]

When request for an informal hearing is requested and an informal hearing is required, DHC will proceed with the hearing in a reasonably expeditious manner.

A request for an informal hearing must be made in writing and delivered to DHC either in person or by first class mail, by the close of the business day, no later than 10 business days from the postmark date of DHC's decision or notice to terminate assistance. DHC will schedule and send written notice of the informal hearing to the family. The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a disabled person. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

Requests to reschedule a hearing must be made orally or in writing at least 24 hours before the hearing date. At its discretion, DHC may request documentation of the "good cause" before rescheduling the hearing. If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact DHC within 48 hours of the scheduled hearing date, excluding weekends and holidays. DHC will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a disabled person.

DHC may request documentation of the "good cause" before rescheduling an informal hearing. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, DHC's decision will stand.

An informal hearing will be rescheduled no more than two times within a 30-day period. If the second appointment is requested by the participant, scheduled and results in a no-show, the action pending will stand, and the client and owner will be notified of the final results.

Informal hearings are to begin at the time scheduled. A grace period of 15 minutes, following the 15-minute grace period and if the participant did not notify DHC in advance of the scheduled appointment, the pending action with stand and the client and owner will be notified of the final results.

DHC will consider all reasonable accommodation requests associated with informal hearings.

3. Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and DHC are permitted pre-hearing discovery rights. The family must be given the opportunity to examine, before the hearing, any DHC documents that are

directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. The family will be allowed to copy any documents related to the hearing at a cost of $.10 per sheet. The family must request discovery of DHC documents no later than 5 business days before the scheduled hearing date. DHC will make the documents available no later than 12:00 pm on the business day before the scheduled hearing date. If DHC does not make the documents available for examination on request of the family, DHC may not rely on the documents at the hearing.

Whenever a participant requests an informal hearing, DHC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the informal hearing.

For the purpose of informal hearings, *documents* include records and regulations.

If the hearing will be conducted remotely, DHC will compile a hearing packet, consisting of all documents DHC intends to produce at the informal hearing. DHC will mail, fax or email copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of a DHC representative and retained by DHC.

Documents will be shared electronically whenever possible.

DHC's hearing procedures may require the opportunity to examine at the DHC offices before the hearing any family documents that are directly relevant to the hearing. DHC must be allowed to copy any such document at DHC's expense. If the family does not make the document available for examination on request, the family may not rely on the document at the hearing.

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, DHC will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing. DHC will scan and email copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

4. Participant's Right to Representation and Interpretive Services

[24 CFR 982.555(e) (3)]

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf. The family is

entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or DHC, as may be agreed upon by the two parties.

If the family is being represented by a lawyer, DHC shall be advised of the lawyer's name and contact information no later than 5 business days before the hearing. Upon receipt of the contact information all communication related to the informal hearing shall be between DHC and the family's lawyer.

5. Informal Hearing Officer [24 CFR 982.555(e) (4)]

Informal hearings will be conducted by a person or persons approved by DHC, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

DHC may utilize DHC employees who have received grievance hearing training and who do not work in the Assisted Housing Department as hearing officers.

6. Attendance at the Informal Hearing

Informal hearings may be attended by a hearing officer and (1) DHC representative(s), any witnesses for DHC and DHC's attorney; (2) the participant, any witnesses for the participant and the participant's attorney or other representative; and (3) any other person approved by DHC as a reasonable accommodation for a disabled person.

7. Conduct at Informal Hearing

The person who conducts the informal hearing may regulate the conduct of the informal hearing in accordance with DHC's hearing procedures [24 CFR 982.555(4) (ii)].

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive, or otherwise inappropriate behavior will be excused from the informal hearing at the discretion of the hearing officer.

8. Recording of the Hearing

DHC will record the informal hearing but is not required to provide a transcript of the informal hearing. DHC will provide a copy of the recording of the informal hearing to the family at the family's expense.

9. Evidence [24 CFR 982.555(e) (5)]

DHC and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the informal hearing. Evidence Includes:

- **Oral evidence**: the testimony of witnesses.
- **Documentary evidence**: a writing which is relevant to the case, for example, a letter written to DHC. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence**: Evidence created specifically for the informal hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence**: A tangible item relating directly to the case.

*Hearsay evidence* is evidence of a statement that was made other than by a witness while testifying at the informal hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone will not be used as the sole basis for the hearing officer's decision.

If either DHC or the family fails to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence. Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

10. Hearing Officer's Decision [24 CFR 982.555(e) (6)]

The person who conducts the informal hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the informal hearing. A copy of the decision must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

**DHC's Notice to the Family**: The hearing officer will determine if the reasons for DHC's decision is stated in the notice.

**Discovery:** The hearing officer will determine if DHC and the family were given the opportunity to examine any relevant documents in accordance with DHC policy.

**DHC's Evidence to Support DHC Decision**: The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officerwill evaluate the evidence to determine if it supports DHC's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable)**: The hearing officer will determine if the termination of assistance is for one of the

grounds specified in HUD program materials, such as regulations, guidance, HAP Contract, and the Tenancy Addendum, as well as DHC policies. If the grounds for termination are not in compliance with HUD program materials and DHC policies, then DHC's decision will be overturned.

The hearing officer will issue a written decision to the family and DHC staff as applicable no later than 15 business days after the informal hearing.

11. Hearing Information

The hearing officer's decision will contain the following**:**

- Name of the participant.
- Date, time, and place of the hearing.
- Name of the hearing officer.
- Name of DHC representative(s).
- Name of family representative (if any).

In addition, the hearing officer's decision will also include the following information as a part of the informal hearing process:

- **Background**: A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence**: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold DHC's decision.
- **Order:** A statement of whether DHC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct DHC to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct DHC to restore the participant's program status. And, if required by the hearing officer, the family must complete any pending outstanding items. If the pending items are not completed within 30 calendar days of the date of the hearing officer's decision, the termination will be considered upheld.

12. Procedures for Further Hearing

The hearing officer may ask the family for additional information and/or may adjourn

the informal 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 DHC will take effect and another informal hearing will not be granted.

13. DHC's Notice of Final Decision [24 CFR 982.555(f)]

DHC is not bound by the decision of the hearing officer for matters in which DHC is not required to provide an opportunity for an informal hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If DHC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, DHC will promptly notify the family of the determination and the reason for the determination.

DHC will send a "Notice of Final Decision" including the hearing officer's decision, to the participant and their representative. This notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained by DHC.

A decision against a family member issued in accordance with DHC's informal hearing process, does not preclude the participant from exercising the right, that may otherwise be available, to seek redress through the judicial process.

## 16-3D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time before a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while a DHC informal hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or DHC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through the judicial process.

1. Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

As discussed in Chapters 3 and 11, the notice of denial or termination of assistance for non-citizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for pro-ration of assistance.
- In the case of a participant, the criteria, and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal; and
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

2. USCIS Appeal Process [24 CFR 5.514(e)]

When DHC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, DHC must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide DHC with a copy of the written request for appeal and the proof of mailing.

DHC will notify the family in writing of the results of the USCIS secondary verification within 15 business days of receiving the results. The family must provide DHC with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to DHC, of its decision. DHC will send written notice to the family of its right to request an informal hearing within 15 business days of receiving notice of the USCIS decision regarding the family's immigration status.

## 16-3E. INFORMAL HEARING PROCEDURES FOR APPLICANTS [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that DHC provide an informal hearing. The request for an informal hearing must be made either within 10 business days of receipt of DHC's notice of denial or within 10 business days of receipt of the USCIS appeal decision. The informal hearing procedures for applicant families are described below.

1. Informal Hearing Officer

DHC will provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

DHC may utilize DHC employees who have received grievance hearing training and who do not work in the Assisted Housing Department as hearing officers.

2. Evidence

Families and DHC are permitted pre-hearing discovery rights. The family will be given the opportunity to examine, before the hearing, any DHC documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. The family will be allowed to copy any documents related to the hearing at a cost of $.25 per page. The family must request discovery of DHC documents no later than 5 business days before the scheduled hearing date. DHC must make the documents available no later than 12:00 pm on the business day before the scheduled hearing date. If DHC does not make the documents available for examination on request of the family, DHC may not rely on the documents at the hearing.

DHC must be given the opportunity to examine, at DHC offices before the hearing, any family documents that are directly relevant to the hearing. DHC must be allowed to copy any such documents at DHC's expense. DHC must request discovery of family documents no later than 5 business days before the scheduled hearing date. The family must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date. If the family does not make the documents available for examination on request of the DHC, the family may not rely on the document at the hearing.

Whenever a participant requests an informal hearing, DHC will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the informal hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings. The family will also be provided the opportunity to refute evidence relied upon by DHC, and to confront and cross-examine all witnesses on whose testimony or information DHC relies.

3. Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf. The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or DHC, as may be agreed upon by the two parties.

If the family is being represented by a lawyer, DHC shall be advised of the lawyer's name and contact information no later than 5 business days before the hearing. Upon receipt of the contact information all communication related to the informal hearing shall be between DHC and the family's lawyer.

4. Recording of the Hearing

DHC will record the informal hearing but is not required to provide a transcript of the informal hearing. DHC will provide a copy of the recording of the informal hearing to the family at the family's expense.

5. Hearing Decision

DHC must provide the family with a written, final decision, based solely on the facts presented at the informal hearing, within 30 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

## 16-3 F. INFORMAL HEARING PROCEDURES FOR RESIDENTS [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that DHC provide an informal hearing. The request for an informal hearing must be made either within 10 business days of receipt of DHC's notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status.

1. Retention of Documents [24 CFR 5.514(h)]

DHC shall retain, for a minimum of 5 years, the following documents that may have been submitted to DHC by the family, or provided to DHC as part of the USCIS appeal or the informal hearing process:

- The application for financial assistance.
- The form completed by the family for income re-examination.
- Photocopies of any original documents (front and back), including original USCIS documents.
- The signed verification consent form.

- The INS verification results.
- The request for an USCIS appeal.
- The final INS determination.
- The request for an informal hearing; and
- The final informal hearing decision.

## PART IV: OWNER OR FAMILY DEBTS TO DHC

### 16-4 A. OVERVIEW

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the owner or participant is responsible to return any overpayments to DHC.

This part describes DHC's policies for recovery of monies that have been overpaid on behalf of families or to owners. [24 CFR 982.54]

When an owner or participant refuses to repay monies owed to DHC, DHC will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

### 16-4 B. REPAYMENT POLICY

1. Owner Debts to DHC

If the owner is entitled to any other payments under HAP contracts with DHC, DHC will reduce the future HAP payments by the amount owed until the debt is paid in full in accordance with federal rules and regulations. Any amount due to DHC by an owner may be repaid in full upon receipt of notice of debt by DHC.

It is anticipated that debts be made current with DHC within 30 calendar days of notice of debt by DHC. However, if the owner is not entitled to future HAP payments, DHC may offer to enter into a repayment agreement in accordance with the policies below.

If the owner refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, DHC will ban the owner from future participation in the HCV Program and pursue other methods of collection.

2. Family Debts to DHC

Any amount due to DHC by an HCV participant must be repaid by the family. If the

family is unable to repay the debt within 30 days of DHC's notice of the amount owed, DHC may offer to enter into a repayment agreement in accordance with the policies below. If the family refuses to repay the debt, enter into a repayment agreement, or breaches a repayment agreement, DHC will terminate the assistance upon notification to the family and pursue other modes of collection.

3. Repayment Agreement [24 CFR 792.103]

The term r*epayment agreement* refers to a document entered into by an HCV participant or owner and DHC in which an HCV participant or owner acknowledges a debt to DHC in aspecific amount and agrees to repay the amount due at specific time periods.

If the amount owed is no more than $10,000.00, DHC, in its sole discretion, may enter into a repayment agreement. DHC shall determine the terms and conditions of the repayment agreement.

4. Repayment Agreement Guidelines

**a. Payments**

The repayment agreement shall be paid in equal monthly installments. One month's installment shall be paid as a down payment before execution of the repayment agreement. The initial down payment shall be 25% of the total debt due DHC. The Assisted Housing Director may approve a decrease in the monthly payment for families who experience a hardship and provides verification of the hardship. The family must make a written request for a hardship decrease. The request shall be made within 10 business days of the event triggering the hardship request. Any change in monthly payment shall be in writing, be signed by the Director of Assisted Housing and the family and made an attachment to the repayment agreement. The term of the repayment agreement shall be lengthened accordingly, up to a maximum of 36 months.

Payments shall be made by cashier's check or money order.

The monthly retroactive rent payment plus the monthly rent payment cannot exceed 40% of a family's monthly adjusted income (MAI). If a family is paying less than 40 percent of its MAI in rent, the minimum monthly payment amount will be the greater of the following amounts:

- The difference between 40 percent of the family's MAI and the total family share at the time the Repayment Agreement is executed.

- If a family can provide evidence satisfactory to DHC that a monthly payment amount of $25 would impose an undue hardship, DHC may, in its sole discretion, require a lower monthly payment amount.

If the family's income increases or decreases during the term of a Repayment Agreement, the monthly payment amount may be adjusted accordingly.

Repayment Agreements that exceed 40% of a family's MAI will be extended in one-month increments until the payment does not exceed 40% of MAI.

### b. Term of Repayment Agreement

The repayment agreement term shall generally be for 12 months or less but shall in any event be the minimum time period in which the family can be reasonably expected to repay the debt owed. The Executive Director, Deputy Executive Director, or Director of Assisted Housing may approve longer terms, when necessary. The Director of Assisted Housing shall provide a written justification for the longer term.

### c. Execution of a Repayment Agreement

The head of household and spouse or co-head, if applicable, must sign the repayment agreement for a family. An authorized representative of the owner must sign on behalf of the owner. The Director of Assisted Housing must sign on behalf of DHC.

### d. Due Dates

All payments under a repayment agreement are due by the close of business on the 1st day of the month. If the 1st does not fall on a business day, the due date is the close of business on the first business day after the 1st.

### e. Non-Payment by Family

If a payment is not received by the end of the business day on the 5th day of the month and prior approval for the missed payment has not been given by DHC, DHC will send the family a delinquency notice giving the family 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the repayment agreement and DHC will terminate assistance upon written notification to the family.

If a family receives 3 delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default and DHC will terminate assistance upon written notification to the family.

### f. Non-Payment by Owner

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by DHC, DHC will send the owner a delinquency notice giving the owner 10 business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the repayment agreement and DHC will pursue other collections remedies against the owner.

### g. No Offer of Repayment Agreement

DHC will not enter into a repayment agreement if:

1. There is already a repayment agreement in place with the family or owner.
2. DHC determines that the amounts owed by the family is more than the family can repay in a reasonable period; or
3. DHC determines that the family has committed or has attempted to commit program fraud. If a family owes DHC an amount that equals or exceeds $9,999 as a result of program fraud. These matters will where appropriate be referred to the HUD Inspector General and/or referred for criminal prosecution.

### h. Requests to Move

No move will be approved until the debt is paid in full, unless the move is for the following reasons:

- Family size exceeds the HQS maximum occupancy standards.
- HAP Contract is terminated due to owner non-compliance or opt-out.
- Man-made or natural disaster.
- The move is as a reasonable accommodation approved by DHC; or
- The move is necessary as a result of domestic violence, dating violence, stalking or sexual assault and VAWA required documentation is provided.

### i. Writing Off Debts

Debts will be written-off if:

- the debtor's whereabouts are unknown, and the debt is more than seven (7) years old.
- a determination is made that the debtor is judgment proof.
- the debtor is decreased and has no estate.
- the debtor is confined to an institution indefinitely or for more than five (5) years; or
- the amount is less than $750 and the debtor cannot be located.

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## 5. Repayment Agreements Involving Improper Payments

In accordance with HUD PIH Notice 2010-19 the following provisions will be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the program materials that state the family's obligation to provide true and complete information at every reexamination and the grounds on which DHC may terminate assistance because of a family's action or failure to act.
- A statement clarifying that each month the family not only must pay to DHC the monthly payment amount specified in the repayment agreement but must also pay to the owner the family's monthly share of the rent to owner.

- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

Participants are required to reimburse DHC if they were charged less rent than required by HUD's rent formula due to the tenant's underreporting or failure to report income. The participant is required to reimburse DHC for the difference between the tenant rent that should have been paid and the tenant rent that was charged. This rent underpayment is commonly referred to as retroactive rent. If the participant refuses to enter into a repayment agreement or fails to make payments on an existing or new repayment agreement, DHC **must** terminate the family's tenancy or assistance, or both. HUD does **not** authorize any DHC-sponsored amnesty or debt forgiveness programs.

DHC is required to determine retroactive rent amount as far back as DHC has documentation of family reported income.

## PART V: DHC OPTIONS WHEN THERE IS INSUFFICIENT HAP FUNDING

The HCV regulations allow DHC to deny families permission to move and to terminate HAP Contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(e)(1) and 982.454].

### 16-5 A. METHODOLOGY TO DETERMINE IF THERE IS INSUFFICIENT HAP FUNDING

DHC will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing DHC's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, DHC will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, and/or if DHC cannot support the cost of the proposed subsidy commitment, i.e., voucher issuance or move, based on the funding analysis when taking into account use of Net Restricted Assets to offset HAP shortfalls only in so far as DHC will maintain in reserve at a minimum an amount equal to an average month of HAP expenditures, DHC will be considered to have insufficient funding.

### 16-5 B. DHC OPTIONS WHEN THERE IS INSUFFICIENT HAP FUNDING

If there is insufficient HAP funding, DHC may do any of the following:

• **Deny Move –** DHC may deny a move under 24 CFR 982.314(e)(1). DHC will notify the local HUD office before denying a move for this reason.

• **Terminate HAP Contract**-DHC may terminate a HAP Contract under 24 CFR 982.454.

• **Terminate Assistance of a Participant -** DHC may terminate the assistance of a participant. If DHC exercises this option, the assistance of participants who have been in the HCVP the longest, based upon move-in date, shall be terminated. However, the assistance of an elderly participant or of a disabled participant who is the head of household shall not be terminated.

Participants will receive written notification at least 30 days before the effective date of the termination that states the reason for the termination and specifies the effective date of the termination. The notice shall also inform the participant of the right to request an informal hearing.

Participants for whom assistance is terminated based upon insufficient HAP funding will not be eligible for reinstatement to the HCV Program once sufficient HAP funds are available.

DHC will notify the local HUD field office and its financial analyst at the Financial Management Center before issuing notices of termination of assistance.

• **New Voucher Issuance** - DHC may stop issuing vouchers to applicants.

• **Rescind Outstanding Vouchers** - DHC may rescind outstanding vouchers for applicants searching for housing that have not yet resulted in an executed HAP Contract.

• **Lower Payment Standards** - DHC may lower payment standards for all or some unit sizes.

## PART VI: RECORDKEEPING

### 16-6A. OVERVIEW

DHC must maintain complete and accurate accounts and other records for the HCV Program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, DHC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

### 16-6 B. RECORD RETENTION [24 CFR 982.158]

During the term of each assisted lease, and for at least three (3) years thereafter, DHC must keep:

- A copy of the executed lease.
- The HAP Contract; and
- The application from the family.

In addition, DHC will keep the following records for at least three (3) years:

- Records that provide income, racial, ethnic, gender, and disability status data on HCV Program applicants and participants.
- An application from each ineligible family and notice that the applicant is not eligible.
- HUD-required reports.
- Unit inspection reports.
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting DHC budget and financial statements for the HCV Program.
- Records to document the basis for DHC determination that rent to owner is a reasonable rent, initially and during the term of a HAP Contract, and
- Other records specified by HUD.

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements.

## 16-6 C. RECORDS MANAGEMENT

All applicant and participant family information will be kept in a secure location and access will be limited to authorized DHC staff and agents.

DHC staff will not discuss personal applicant or participant family information unless there is a business reason to do so. Inappropriate discussion of applicant or participant family information or improper disclosure of applicant or participant family information by DHC staff and agents may result in disciplinary action.

### *1. Privacy Act Requirements [24 CFR 5.212 and Form-9886]*

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of federal, state, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form

incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or DHC may release the information collected.

*2. Upfront Income Verification (UIV) Records*

HUD requires PHAs that access UIV data through HUD's Enterprise Income Verification (EIV) System to adopt and follow specific security procedures to ensure that all EIV data is protected in accordance with federal laws, regardless of the media on which the data is recorded, e.g., electronic or paper. These requirements are contained in the HUD issued document, *Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data.*

DHC will adopt and implement the EIV security procedures required by HUD.

*3. Criminal Records*

DHC may only disclose the criminal conviction records which DHC receives from a law enforcement agency to officers or employees of DHC or to authorized representatives of DHC who have a job-related need to have access to the information [24 CFR 5.903(e)]. DHC must establish and implement a system of records management that ensures that any criminal record received by DHC from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC action without institution of a challenge.

DHC must establish and implement a system of records management that ensures that any sex offender registration information received by DHC from a state or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to DHC action without institution of a challenge. This requirement does not apply to information that is public information or is obtained by DHC other than under 24 CFR 5.905.

*4. Medical/Disability Records*

DHC is not permitted to inquire about the nature or extent of a person's disability. DHC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DHC receives a verification document that provides such information, DHC staff should not place this information in the participant file. DHC staff should destroy the document by shredding.

## PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

### 16-7 A. OVERVIEW

DHC has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that DHC is subject to.

### 16-7B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

DHC will report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within ~~5~~ 15 business days of being so notified by any other medical health care professional.

DHC will provide to the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

### 16-7C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least semi-annually, DHC must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If DHC obtains names and addresses of environmental intervention blood lead level children from the public health department(s), DHC must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, DHC must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least semi-annually, DHC must also report an updated list of the addresses of units receiving assistance under the HCV Program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

## PART IX. PROTECTING TENANTS AT FORECLOSURE

## 16-9A. OVERVIEW

The Protecting Tenants at Foreclosure Act (PTFA) was passed to protect tenants from being immediately evicted from their homes when a new owner acquires the unit by foreclosure. Under Section 703 of PTFA, a purchaser of property at foreclosure takes the property subject to the existing lease between the owner and the HCV Program participant. During the remaining term of the lease, the new owner may not evict the HCV Program participant because of the foreclosure or the new owner's desire to have the unit vacated does not constitute good cause under the lease. The new owner must

provide the HCV Program participant with a minimum 90-day notice before evicting from the unit regardless of the amount of time remaining on the lease. The purchaser also takes the property subject to the Housing Assistance Payments (HAP) Contract between DHC and the previous owner so DHC will make HAP payments to the new owner who must comply with the HAP Contract. If the new owner intends to occupy the unit as a primary residence, the new owner does not take subject to the lease for the remaining term of the lease and may provide the HCV Program participant with a notice to vacate at least 90 days before the effective date of such notice.

Project-based Section 8 tenants are subject to Section 702 of the PFTA. A new owner takes title subject to the Section 8 lease, which provides that a tenant may not be evicted except for good cause. During the remaining term of the lease, the new owner may not evict the tenant because of the foreclosure or the new owner's desire to have the unit vacated does not constitute good cause under the lease. The new owner must provide the tenant with a minimum 90-day notice before evicting from the unit regardless of the amount of time remaining on the lease. The purchaser also takes the property subject to the Housing Assistance Payments (HAP) Contract between DHC and the previous owner so DHC will make HAP payments to the new owner who must comply with the HAP Contract.

PTFA's protections shall not preempt any State or local law that provides additional protections for tenants.

## 16-9B. DHC RESPONSIBILITIES

If DHC learns that the property is in foreclosure, DHC will:

- Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. This information can most likely be obtained through information that has been sent to the tenant notifying them of the foreclosure, and possibly in a 90-day notice to vacate. Additionally, DHC may review legal notices in the local newspaper or the local governments', web site to keep apprised of foreclosure actions initiated against owners of HCV assisted properties.
- Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP Contract. With the exception of HUD-insured mortgages or loans, defaulting on a mortgage/loan is not a breach of the HAP Contract.
- Attempt to obtain a written acknowledgement of the assignment of the HAP Contract from the successor-in-interest. The written agreement should include a request for owner information such as a Tax Identification Number, and payment instructions from the new owner. Even if the new owner does not acknowledge

the assignment of the HAP Contract in writing, the assignment is nevertheless effective by operation of law.

- Inform the tenant s/he must continue to pay rent in accordance with the lease, and if the successor-in-interest refuses to accept payment or cannot be identified, the tenant should pay the rent into escrow, because failure to pay rent may constitute an independent ground for eviction.
- If DHC is unable to make HAP payments to the successor-in-interest due to an action or inaction by the successor-in-interest that prevents such payments, including (1) the rejection of payments, (2) the failure of the successor-in-interest to maintain the property in accordance with Housing Quality Standards (HQS) or (3) an inability to identify the successor-in-interest, DHC should inform the family. In order to ensure adequate protection of the tenant's rights DHC may refer tenants, as services are needed, to the local Legal Aid Office.
- DHC will terminate the HAP contract after 90 days and require the participant to move if the new owner fails to request assignment of the existing HAP contract.

# CHAPTER 17

# FAMILY SELF SUFFICIENCY PROGRAM
# [24 CFR Part 984]

**OVERVIEW**
In October 1977, DHC began implementation of a Family Self Sufficiency (FSS) Program for its HCV Program participants. The FSS Program's objective is to assist eligible families in receiving comprehensive supportive services from various social service agencies, allowing them to gain economic independence and self-sufficiency. A cornerstone of the FSS Program is the multi-disciplinary review and coordination of family action plan strategies through the Program Coordinating Committee (PCC) and identifying community resources such as social service programs, human resources, and financial resources from both the public and private sectors to support family goals.

## 17-1 A. FSS PROGRAM OBJECTIVES

1. DHC Objectives
   - Develop and promote local strategies that coordinate HCV participants with resources in order to reduce the dependency of low-income families on government assistance.
   - Coordinate the planning and delivery of services to FSS Program participants based on the Contract of Participation (COP).
   - Implement a case management system to identify needs and plan and deliver services to a family based on the family's commitment to becoming self-sufficient.
   - Document the implementation of services to be used for future planning of a broad-based FSS Program.
   - Establish inter-agency partnerships to achieve high quality, comprehensive service delivery to all members of a family with long-term results.
   - Assess accountability of the family, the case management, and the agencies and entities providing services and resources.

2. Family Objectives
   - Elevate themselves from a status of dependency to that of self-reliance and growth towards the goal of self-sufficiency.
   - Demonstrate commitment and accountability to completion of goals

## 17-1B. FAMILY SELF-SUFFICIENCY PROGRAM

1. Contract of Participation (COP)

Families that participate in the FSS Program must sign a COP. The COP specifies the family's responsibilities and obligations under the FSS Program. The Individual Training

and Services Plan (ITSP), which is part of the COP, lists the resources and available supportive services for the family.

2. Escrow Account

Under the FSS Program the increased income from wages earned by the FSS family, subject to certain regulatory restrictions, goes into an "escrow account" that upon DHC's approval of an interim withdrawal can be drawn down by the family for eligible expenses such as homeownership or advanced education. DHC limits interim withdrawals to once annually.

3. Program Coordinating Committee (PCC)

The PCC acts as a governing board to oversee overall implementation of the FSS Program. The PCC may participate in the development of the FSS Program policies, assist DHC in obtaining supportive services funding and services commitments, and assists with the overall implementation of the FSS Program. DHC has the final decision-making authority with respect to FSS Program policies and membership of the PCC. PCC members come from the private and public sector. Committee members' expertise includes, but is not limited to, the following disciplines: housing, childcare, educational, vocational, social, and economic counseling, employment counseling, and employment and medical assistance.

The PCC will meet at least annually, or more frequently as needed, to review and assess FSS participant needs and to provide interagency coordination to ensure that services are being duplicated.

4. Recruitment of FSS Participants - Outreach Efforts

Participants in the FSS Program will be recruited from among current HCV participants. DHC will inform HCV participants of the FSS Program via posters, flyers, email, and othermedia. Recruitment material will include the following:

- Description of the FSS Program and its goals.
- Incentives to participate.
- Assurance that a family's election not to participate will not affect the family's continued occupancy of assisted housing.
- Statement that participation is voluntary; and
- A response form for families to indicate whether they are currently interested in participating or may be interested at some point in the future.
- In addition, FSS Program information will be distributed to each HCV applicant at the HCV Program briefing.

Additional outreach efforts will include:

- Community network with supportive services providers and local resource information groups
- DHC will not discriminate based on race, religion, sex, disability, status, family status or national origin. Assistance will be given to all participants that require assistance completing FSS material during information sessions and interpreters

may be provided, if requested. Information to be obtained in the one-on-one session will be used to determine the need for services and the sessions will aid in the development of a realistic ITSP.

*5. FSS Family Selection*

Participants will be selected from among the following:

- Individuals who express an interest in the FSS Program by responding to the introductory letter or other informational resources. Invitations to informational sessions will be provided on a "first come, first served" basis.
- Special invitations may be mailed to individuals who have begun self-sufficiency on their own. Housing Specialists will provide referrals.
- Staff with direct contact with HCV participants will inform HCV participants about the basics of the FSS Program during various encounters.

Following an initial information session, families who want to participate in the FSS Program will schedule an appointment with an FSS staff person to develop a family needs assessment and action plan. DHC's selection procedures will ensure that families will be selected without regard to race, color, religion, sex, handicap, disability, familial status, national origin, age, or ancestry. [24 CFR 984.201(d) (4)]

*6. Screening and Application Procedures*

The following obligations are to be fulfilled by interested individuals as a condition for acceptance into the FSS Program:

- Individuals must respond to the introductory letter or contact DHC and express an interest in participating in the FSS Program.
- Individuals must attend a FSS Program orientation in which they will be informed about the FSS Program and sign up for a follow-up workshop or activity. Failure to attend the follow up activity or workshop will result in the participant not being selected to participate in the FSS Program.
- Individuals will meet with a case manager, complete the pre-enrollment form, and schedule an appointment for a needs assessment.
- A needs assessment will be done, a review of the terms of the COP and an ITSP will be developed, and provider referrals will be identified, if acceptable to the family.
- Participants will schedule a final appointment with the FSS Coordinator to sign a COP finalizing the enrollment process.

## 17-1 C. COP TERMS AND CONDITIONS

The COP is to be administered in compliance with HUD regulations. It states the rights and responsibilities of the family and DHC, the resources and supportive services to be provided to the family, and the activities to be completed by the family. The COP

designates the head of the FSS family as the adult family member who is head of household for purposes of determining income eligibility and rent and lists income information for the participating family.

The COP also specifies the term of the COP and requires a family to be independent of welfare assistance at least twelve (12) consecutive months before the COP's expiration. The initial COP is for five (5) years and can be extended for good cause up to two (2) additional years by submitting a written request including a description of the need for the extension to the FSS Coordinator. "Good cause" for an extension means circumstances beyond the control of the family, such as involuntary loss of employment or a serious illness that could prevent a family from fulfilling their COP.

The COP also specifies other important FSS program terms and conditions including:

- A description of the manner in which rental payments will be calculated.
- A description of the escrow savings account and the participant's access to such accounts at the end of the FSS Program.
- The participant's and the FSS Program's obligations over the course of the program; and
- The conditions under which a person may terminate or be terminated from the FSS Program.
-

A COP is considered complete when the family has fulfilled all COP obligations on or before the end of the COP or 30 percent of monthly-adjusted income equals or exceeds the fair market rent.

1. *Short- and Long-Term Goals*

During the first year, the designated head of family must have initiated one of the following goals:

- Vocational or educational training, including GED.
- Job training or employment for advancement.
- Actively seeking employment, with ability to verify sincere efforts made to obtain employment; or
- Follow through with all referrals for employment.

During the second and third years, the designated head of family must be involved in one of the following:

- Employment with potential for advancement.
- Educational or vocational training towards earning a degree.
- Nearing completion in educational or vocational training.
- Employment during some part of this period or seeking employment; or
- Completion of interim goals in the ITSP.

During the fourth and fifth years, the designated head of family must be involved in the following:

- Employment and working toward self-sufficiency.

- Nearing completion of training.
- Actively seeking employment and obtaining employment upon completion of training.
- Independence from federal or state welfare assistance at least twelve (12) consecutive months before expiration of the COB.
- Completion of the ITSP.

*2. Case Management and Supportive Services Providers*

DHC will work closely with agencies to provide case management and supportive services.

*3. FSS Program Supportive Services*

FSS staff will:

- Evaluate the needs of participating families related to job training, employment, supportive services, and other areas impacting family self-sufficiency.
- Work with the family to develop an ITSP, which includes measurable goals and objectives.
- Provide referrals to appropriate training, education, and support services.
- Periodically monitors family progress through telephone call, meetings, letters, email, etc.
- As requested, work to resolve obstacles impacting the family's ability to fulfill their ITSP; and
- Periodically, DHC may conduct group meetings and seminars for FSS participants in partnership with local service providers. These meetings and seminars will provide an opportunity to share information related to common participant needs and problems.

4. Identifying Support Services Needs

The first step of the process of identifying supportive service needs will involve the development of a comprehensive Needs Assessment (NA). The NA may require more than one appointment, depending on family circumstances. The NA will help participating families develop and articulate clear goals in each key area including education, job readiness, job training, job placement, support services, childcare, transportation, etc. The NA form contains a release of information statement that will permit FSS staff to discuss with other service programs the benefits a participant family may be receiving or for which it may be eligible to receive services under the FSS Program. The statement also permits DHC to share the participant's information with the PCC so that all entities involved in developing the ITSP can determine how to best meet the family's needs. PCC members will be required to sign a document ensuring that they will maintain the confidentiality of all such information. Finally, the statement permits DHC to include in a participant's file the most recent 50058 from the family's resident file.
Following completion of the NA, FSS staff and the FSS participant will jointly develop an ITSP that will include measurable goals, objectives, and a timeline. An ITSP will be developed for the designated head and any adult family member, 18 years of age or older, who agrees to participate, provided supportive services are available.

After the ITSP is agreed upon, the family will sign it and the COP. The ITSP and the COP become effective the first of the upcoming month following signature. The ITSP may run for up to a five-year period. During this period, the plan may need to be modified to meet changing circumstances. Modifications will be jointly agreed to in writing by FSS staff and the FSS participant. At that time FSS staff will register the family as an active FSS participant.

Following approval of the ITSP, the FSS staff will work with each FSS family by monitoring their progress, identify and resolve obstacles, and help identify resources to provide training, counseling to support job readiness, job placement, homeownership and other FSS Program services. FSS participant information related to FSS progress will be updated periodically and at a minimum updated at their annual re-examination.

*5. Unavailability of Supportive Services*

Supportive services are subject to availability. In the event of failure on the part of a social service agency to provide services, FSS staff will make a good faith effort to obtain a replacement.

FSS staff will determine if unavailable services are integral to the family's progress or advancement towards self-sufficiency. If services are not integral to the family's progress, FSS staff shall revise the ITSP to delete services and modify the COP to remove any obligations on the family to accept unavailable services. If unavailable services are integral, FSS staff shall declare the COP null and void and reclassify the FSS family as a non-FSS family.

*6. One-to-One Support*

Participants will be encouraged to accept one-to-one outreach service provided by various volunteer organizations. This service is designed to provide non-DHC support and guidance. Outreach volunteers will offer their friendship through phone calls, home visits, and by accompanying participants to various service agencies. The volunteers will be trained to access information and supportive services as well as to become mentors and a positive force to enhance participants on their journey to self-sufficiency.

*7. Social and Economic Development*

In addition to the individual one-to-one support that participants will receive, FSS staff and the PCC will inform and notify of periodic training sessions. These sessions will address topics such as:

- Budget Counseling
- Family Planning
- Consumer Credit
- Home Ownership
- Small Business Establishment
- Job Security

- Job Advancement

*8. Career and Personal Development*

Job Readiness/Job Enhancement Class – may be provided by Michigan Works and may be required of all participants.

Career/Needs Assessment – will be provided directly or indirectly by FSS. Participants will be encouraged to participate in a Career Assessment program with a third-party provider.

Job Development and Placement – PCC members and FSS staff will obtain information about job openings. FSS staff and the PCC will develop a network with job providers from the private and public sector.

DHC will network with agencies that provide services to disabled individuals.

FSS staff and outreach representatives will assist FSS participants with job placement and development based on their capabilities. Employment counseling will be provided on an ongoing basis.

Child Care – In addition to accessing various subsidized childcare services, the PCC and FSS staff will develop a FSS participants' childcare network. A copy of the participants in the network will be provided to the FSS participant.

Supplementary Education – Supplementary education will be made available through various adult continuing education programs. Some possible needs include adult literacy, GED, educational counseling, drug counseling, etc. All activities will be documented.

Transportation – Eligible participants will be referred to transportation assistance for medical services. Other services may include free bus passes through MDOT, Public Schools Systems, the Michigan Department of Health, and Human Services,

The PCC will work towards securing services for FSS participants.

## 17-1D. INDIVIDUAL FAMILY SERVICE REQUIREMENTS

The specific services required by each individual family will differ based on needs. These differences will be determined during the initial FSS application process when the participants meet with FSS staff to discuss their family circumstances:

| Supportive Service Need | Examples |
|---|---|
| Education | Basic Literacy Skills<br>GED Preparation<br>Community College or University Courses<br>English as Second Language |
| Job Readiness | Self-Esteem and Motivation Building<br>Job Seeking Skills<br>Good Work Habits |
| Job Training | Structured Training Programs leading to entry-level jobs<br>Combined work/study courses |
| Child Care | Infant and toddler care<br>Latch key after school care<br>Expanded hour care |
| Transportation | Transportation to training and education<br>Transportation to childcare<br>Transportation interviews<br>Transportation to job sites |
| Counseling | Parenting skills<br>Substance abuse prevention, intervention, andtreatment<br>Domestic violence prevention and intervention |
| Homeownership | Credit counseling<br>home buying process<br>Down payment assistance |

## 17-1E. FSS ESCROW ACCOUNT

DHC will establish a single depository escrow account in which to deposit the FSS escrow funds of all families participating in the FSS Program. These funds will be deposited in one or more interest-bearing, HUD-approved investments.

DHC will maintain a subsidiary ledger showing the balance applicable to each FSS family. The investment income for funds in the FSS escrow account will be pro-rated based on the balance in each family's FSS escrow account at the end of the period for which the investment income is credited. If the FSS family has not paid amounts due DHC at the end of each calendar year, the balance in the family's FSS escrow account will be reduced by the amount owed before pro-rating investment income.

If the family fraudulently underreports income, the amount credited to the FSS escrow account will be based on the income amounts originally reported by the FSS family.

Funds shall be credited periodically, but not less than annually, to each participating family's FSS escrow account, with annual reports provided to FSS families. The report will state the balance at the beginning of the reporting period, the amount of the family's

rent payment credited to the FSS escrow account during the reporting period, any deductions from the escrow account for amounts due DHC before interest distribution, the amount of interest earned, and the total in the escrow account.

For very low-income families, the FSS credit will be the lesser of 30% of monthly adjusted income less the family rent, obtained by disregarding any increases in earned income from the effective date of the COP, or the current family rent less the family rent at the time of the effective date of the COP. For low-income but not very low-income families, the FSS credit is the amount determined under the preceding sentence, but which shall not exceed the amount computed for 50% of median income. FSS families who are not low-income families are not entitled to any FSS credit.

If the head of family ceases to reside with the other family members in the unit, the remaining family members, after consultation with DHC, will have the right to designate another family member to receive the FSS funds.

A FSS family has completed the COP and concluded its participation in the FSS Program when the family has fulfilled all obligations under the COP on or before the expiration of the COP term, including extensions, or 30% of their monthly adjusted income equals or exceeds the published existing housing FMR for the unit size and the area in which it is located. DHC will not make any additional credits to the family's FSS escrow account when the family has completed the COP, or it is terminated or otherwise nullified.

The amount in the FSS escrow account, in excess of any amount owed to DHC, will be paid to the head of family when the COP has been completed, or the family has fulfilled its obligations under the COP before the expiration of the COP, and the head of family submits to DHC a certification that no member of the family is a recipient of welfare assistance. FSS staff will verify information by telephone or in writing from the welfare agency. Amounts in the FSS escrow account will be forfeited if: 1) the COP is declared null and void as provided in 24 CFR Section 984.303(e) or terminated as provided by 24 CFR Section 984.303(h); or 2) the COP is completed but the family is receiving welfare assistance at the time of expiration of the term of the COP, including any extension.

Forfeited funds will be treated as program receipts for payment of HCV Program expenses in accordance with HUD requirements governing the use of FSS Program receipts. In cases of errors in Escrow calculations, DHC will make the appropriate corrections and will send written notification of the corrections to the family.

A FSS family may be eligible to receive a portion of the FSS escrow account funds when interim goals have been completed and it is determined that the family needs these funds to successfully complete the COP. DHC must review and approve an interim withdrawal. One interim withdrawal may occur annually. Consideration for FSS escrow account expenditures will include school tuition or other school costs, small business start-up expenses, costs to purchase a car when public transportation is unavailable, or job training expenses.

FSS families may use up to 50% of the amount in their FSS escrow account for a down payment under the homeownership program. After the purchase of a unit, the FSS family may use any remaining FSS account funds for the costs of major repair and replacement needs.

## 17-1 F. GRIEVANCE AND HEARING PROCEDURES

*1. Applicants*

An informal review will be provided to applicants for a decision to deny participation in the FSS Program.

*2. Participants*

An informal hearing will be provided to participants for a decision to deny or terminate assistance.

## 17-1 G. MISCELLANEOUS PROVISIONS

*1. Denial of FSS Participation*

A FSS applicant will not be approved based on the following:

- The applicant's income does not fall under the HCV guidelines.
- Applicant refuses to pay money owed to DHC
- Applicant has a pattern of non-compliance with the HCV Program.
- Applicant doesn't comply with FSS requirements for acceptance.
- Applicant is uncooperative during the interview process, such as abusive, belligerent, irresponsible, and chronically late, etc.
- Based on applicant's history, there appears to be a pattern of criminal behavior, and the applicant shows no signs of changed behavior.

*2. FSS Portability*

FSS families must lease an assisted unit, for a minimum period of 12 months after the effective date of the COP, in DHC's jurisdiction before the family may move outside DHC's jurisdiction under portability procedures. A relocating family must be granted prior approval by DHC's FSS Program before porting.

*3. Termination from FSS Program*

A FSS family can be terminated for one or more of the following:

- If the FSS family fails to comply with the COP or ITSP.
- A participant voluntarily withdraws from the FSS Program for personal reasons.
- The parties mutually consent to termination.
- If the COP and any extension thereof expires.
- If the FSS family commits fraud, that can be grounds for suspension or termination of HCV assistance.
- If the FSS family has a pattern of HCV non-compliance
- If any other act is committed that is deemed inconsistent with the purpose of the FSS Program.

The COP shall provide that DHC may:

- Terminate or withhold FSS supportive services for a participating HCV family; or
- Terminate or withhold the HCV assistance if the participating family fails to comply with the requirements of the COP.

4. Assurances of Non-Interference and Coordination of Efforts

Participation in the FSS Program is strictly voluntary. A family's decision not to participate in the FSS Program will not affect the family's participation or continued participation in the HCV Program.
All FSS Program planning and implementation efforts will be coordinated to the greatest extent possible with local service providers, including training and supportive service entities, the Job Opportunities and Basic Skills Training Program under Part F of Title IV of the Social Security Act; the Job Training Partnership Act funded programs; and other applicable employment, childcare, transportation, training, and education programs available in the area.
Additionally, FSS staff will work other areas within DHC that have similar self-sufficiency mandates to share resources and to help identify available resources for all programs with a similar mandate.
DHC will not terminate HCV assistance because of the family's failure to meet COP responsibilities. FSS participants must, however, follow all HUD established rules and regulations for the HCV Program.

*5. Exit Interviews*

Exit interviews will be conducted with all outgoing FSS participants who have achieved self-sufficiency, to assess what services were beneficial in attaining their goals. This interview is to troubleshoot any problem areas they have experienced and to encourage FSS participants to become involved with other FSS alumni. The FSS alumni may act as mentors to incoming FSS participants.

6. *Graduation*

A family may participate and graduate one time from the FSS program. If the participant does not complete the COP, one (1) year must lapse from the day the participant exited the program before an FSS interest form may be considered for future FSS program participation.

### 17-2 G Family Unification Program (FUP) and Self Sufficiency (FSS) Program: 24 CFR 984

DHC's Family Unification Program (FUP) extends to FUP participants – a person at least 18 years old and not more than 21 years old (has not reached 22nd birthday) who

left foster care at age 16 or older and who does not have adequate housing. Determining whether the person is between the ages of 18 and21 is only performed at the time of admissions.

Participants can continue assistance on the FUP until the time limit of the voucher is reached, even if the FUP participant is older than 21 at that time.

With HUD's approval, DHC may participate in the FUP and FSS Program Demonstration (FUP/FSS Program) which allows a FUP participant possessing a FUP voucher, with an initial term of 18 months, who agrees to sign an FSS Contract of Participation (Form HUD- 52560) to maintain housing assistance for a period not exceeding the length of the FSS Contract of Participation. The FSS Contract of Participation limit will generally be no more than five (5) years, however if the FSS Contract of Participation is extended per 24 CFR 984.303d, the FUP voucher can be extended for the entire length of the FSS Contract of Participation.

At the inception of the FUP/FSS Program, current FUP participants will be given the opportunity to participate in the FUP/FSS Program. The requirements of compliance and consequences for not complying with the terms of the FUP/FSS Program will be reviewed with the FUP participant prior to signing the Contract of Participation. The current FUP participant will be afforded the full length of the FSS Contract of Participation without regard to the amount of time remaining on the original 18-month time limit on the FUP voucher. The extension of time is only available to those FUP participants who sign a FSS Contract of Participation.

DHC will notify all current FUP participants of the FUP/FSS Youth Program through:

- Direct mail invitation and during the FUP program briefing,
- Direct correspondence with the FUP Youth social service provider,
- Persons identified on the HUD Form 92006, and
- FSS Coordinator contact with FUP Youth timing out of the FUP Program.

Although current FUP participants are eligible to enroll in the FUP/FSS Program until the conclusion of the 18-month time limit of the FUP Voucher, FUP participants must enroll in the FUP/FSS Program within 60 days of notification by DHC of the availability of the FUP/FSS Program.

DHC will announce the FUP/FSS Program in conjunction with the PCWA. The outreach will include, but not be limited, to FUP applicants, FUP participants, and members of the public with disabilities.

The applicants for the FUP/FSS Program are subject to the eligibility requirements outlined in this Administrative Plan.

Participants in the FUP/FSS Program are subject to policies outlined in this Administrative Plan.

If a FUP/FSS Program participant fails to comply with the terms and conditions of the FSS Contract of Participation without good cause and is terminated from the FSS Program, the participant is no longer considered a FUP/FSS Program Participant. Upon termination from the FSS Program, the FUP participant is subject to the FUP Program's statutory time limit of 18 months, beginning from the time the first HAP Contract was signed. If at the time of termination from the FSS Program, the FUP participant has been assisted for more than 18 months, DHC will terminate assistance to the FUP household.

# CHAPTER 18

# PROJECT BASED VOUCHERS

## PART I: GENERAL REQUIREMENTS

### 18-1A. OVERVIEW [24 CFR 983.5]

The project-based voucher program (PBVP) allows PHAs that already administer a tenant-based voucher program under an annual contribution contract (ACC) with HUD to take up to 20% of its Consolidated Annual Contributions Contract (ACC) authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [24 CFR 983.57(b)(1)]. DHC must determine the amount of budget authority that is available for project-based vouchers and ensure that the amount of assistance that is attached to units is within the amounts available under the ACC.

### 18-1B. DHC POLICY

DHC may operate a project-based voucher program using up to 20% of its ACC authorized units for project-based assistance. DHC assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP Contract, DHC is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, DHC is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

For these projects, the project cap is the greater of 25 units or 40%, instead of 25%, of the units in the project (see Section 18.2G).

Summary of Change: Under HOTMA DHC may project-base an additional 10 percent of its ACC authorized units above the 20 percent program limit, provided the additional units fall into one of the eligible exception categories.

The units eligible for inclusion in this 10percent exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. For example, if 10 percent of ACC authorized units is 100, the PHA may project base 50 units for homeless families and 50 units for units providing supportive housing to persons with disabilities or elderly persons.

(1) Exception Categories:

{a) Homeless. The units are specifically made available to house individuals and families who meet the definition of homeless under

section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR §578.3. The definition of homeless is included below for convenience: [1]

{i) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:

- An individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground.
- An individual or family living in a supervised publicly or privately-operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low-income individuals); or
- An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

(ii) An individual or family who will imminently lose their primary nighttime residence, provided that:

(2) The primary nighttime residence will be lost within 14days of the date of application for homeless assistance.

(3) No subsequent residence has been identified; and

(4) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks needed to obtain other permanent housing.

(iii) Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:

- Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 1437e-2), section 330(h) of the Public Health Service Act (42 U.S.C.

254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section l 7{b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a).

- Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance.
- Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance: and
- Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(iv) Any individual or family who:

- Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life- threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to

their primary nighttime residence.

- Has no other residence; and
- Lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, to obtain other permanent housing.

(b) Veterans. The units are specifically made available to house families that are comprised of or include a veteran. A veteran is an individual who has served in the United States armed forces. A "veteran" is also an i-n d i v i d u a l with an "other than dishonorable" discharge status who is ineligible for healthcare provided through the Veterans Health Administration. Veteran status will be verified through US military discharge papers, medical records, etc.

HUD-awarded vouchers specifically designated for project-based assistance out of HUD-VASH appropriated funding are already excluded from the program cap and are not to be included under this 10 percent exception category.

Supportive services. The units provide supportive housing to persons with disabilities or to elderly persons. For the purpose of this exception, supportive housing means: A project that makes supportive services available for all the assisted families in the project and provides a range of services tailored to the needs of the residents occupying such housing. Such services may include (but are not limited to):

- meal service adequate to meet nutritional need.
- housekeeping aid.
- transportation services.
- health-related services.
- childcare.
- educational and employment services.
- job training.
- counseling: health Insurance Counseling and Advocacy Program case Management provides for an individual to conduct a comprehensive assessment of a frail older adult's needs and arrange for in-home services.
- referral and Resources to Legal Assistance.
- multipurpose Senior Services Program.
- senior Community Services Employment Program.
- senior Information and Assistance Program.
- connection to the local Agency on Aging.
- housing Assistance-may include a resource provision of physical adaptations and assistive devices, emergency assistance in situations that demand relocation, temporary lodging expenses in particular situations, and assistance to restore utility services.

- chore and Personal Care Assistance resources to services that can provide elderly persons who need outside help to maintain independent living. Chore is for purposes of household support and applies to the performance of household tasks rather than to the care of the client. Personal Care provides assistance to maintain bodily hygiene, personal safety, and activities of daily living.
- meal Services may include meals served in congregate settings or meals delivered to clients who are homebound, unable to prepare their own meals and have no caretaker at home to prepare meals for them.
- social Services may include social reassurance / friendly visiting, individual or group counseling, and money management.
- communications Services may include resources for translation and interpretive services; and
- other services designed to help the recipient live in the community as independently as possible.

(C) Are located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey Five-Year Estimates

DHC's authorized jurisdiction for the HCV Program is the City of Detroit and the counties of Wayne, Oakland, Lapeer, Macomb, and St. Clair. The five counties are diverse in population and economics, including urban, suburban, and rural areas. Some areas, such as the City of Detroit, are predominately classified as minority and/or economically impacted. In accordance with the City of Detroit Consolidated Plan, DHC is committed to creating communities that incorporate homeownership, commercial property, access to public transportation, and quality, diverse, affordable rental housing for various populations. DHC may elect to increase, limit, or reduce the number of project-based awards to particular areas of its jurisdiction to meet its objectives. DHC may elect to increase, limit, or reduce the number of project-based awards to a particular area of its jurisdiction to meet its objectives.

DHC intends to make use of the project-based component of the HCV Program in accordance with the selection procedures in 24 CFR 983.51(b)(1) and (2). Using these selection procedures DHC may grant vouchers to qualified projects owned or developed for special needs populations, including persons with disabilities, homeless families requiring an array of services to stabilize their lives or other groups of persons whose housing is adversely impacted by local housing market conditions.

DHC may grant vouchers to qualified projects owned or developed for occupancy in the City of Detroit, including qualified projects in which DHC has an ownership or redevelopment interest. DHC may elect to limit awards to specific sectors of the City of Detroit.

DHC intends to make use of the project-based component of the HCV Program in several ways: (1) on new construction or rehabilitation that substantially exceeds Housing Quality

Standards: (2) on property acquired by DHC that will be rehabilitated and/or developed and/or operated by DHC; (3) in DHC's Scattered Sites portfolio; and (4) on projects converted into the HUD Rental Assistance Demonstration Program (RAD).

### 18-1 C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE RULES (24 CFR 983.2)

Except as otherwise noted in this Chapter 18, or unless specifically prohibited by PBVP regulations, DHC policies for the tenant-based voucher program contained in this Admin Plan also apply to the PBVP and its participants.

## PART II: PBVP OWNER PROPOSALS

### 18-2 A. SELECTION OF PBV PROPOSALS (24 CFR 983.51(A), (B) AND (C)):

1. Selection Process

DHC may use a direct competitive process to select projects to receive project-based vouchers. DHC will use a competitive process when DHC has determined that it wishes to set aside a given number if vouchers for projects being developed within its jurisdiction to further the goals of deconcentrating poverty, creating sustainable, affordable housing, and furthering local economic opportunities.

DHC will advertise its Request for Proposals (RFP) for new, rehabilitated, or existing housing in a regulated open-ended process. This process will allow DHC to receive competitive as well as noncompetitive proposals throughout the year and evaluate proposals as DHC deems appropriate and in accordance with DHC Procurement Policy. DHC will determine and include the length of time that each RFP will remain open during the solicitation process. DHC will also post the RFP on its website. The advertisement will specify the number of units DHC estimates it will be able to assist under the available funding. Proposals will be due to DHC by the close of business by the date set in the RFP. Only proposals that are timely submitted and that respond to all requirements of the RFP will be considered. Incomplete proposals will not be reviewed.

A successful proponent will be notified by DHC, in writing, of its selection. DHC will also notify the unsuccessful proponents, in writing, of its selection. The selection will also be posted on DHC's website.

DHC will make detailed application and selection information available at the request of interested parties. DHC will make these documents available for review at DHC's Assisted Housing office during normal business hours.

#### a. Proposals for Rehabilitated and Existing Units (24 CFR 983.57)

A review team consisting of DHC staff will review the proposals, make a determination as to acceptability and score and rank them. DHC will review the proposals using the following criteria:

- The proponent's experience, qualifications, and capability to manage or rehabilitate housing as specified in the RFP.
- The extent to which the project furthers DHC's goal of de-concentrating poverty and expanding housing and economic opportunities.
- Whether the site is suitable from the standpoint of facilitating and further full compliance with applicable civil rights laws.
- Whether the site meets the HQS site standards of 24 CFR 982.401(1).
- Whether the site meets the site and neighborhood standards specified in 24 CFR 983.57(d).
- Developments that substantially exceeds Housing Quality Standards.
- Plan for complying with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) (24 CFR 983.7) (rehabilitated units); and
- Such other factors as DHC may deem appropriate.

**b. Proposals for New Housing (24 CFR 983.57)**

A review team consisting of DHC staff will review the proposals, make a determination as to acceptability and score and rank them. DHC will review the proposals using the following criteria:

- The proponent's experience, qualifications, and capability to build housing as specified in the RFP.
- Whether the site meets the site and neighborhood standards specified in 24 CFR 983.57(e)
- Developments that substantially exceeds Housing Quality Standards.
- Plan for complying with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) (24 CFR 983.7); and
- Such other factors as DHC may deem appropriate.

2. Non-Competitive <u>Proposals Subject to a Previous Competition Under a Federal, State or Local Housing Assistance Program</u>

DHC will accept PBV proposals, on an ongoing basis, from projects where the proposal has been selected, within three (3) years of the PBV proposal selection date, by a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTC's have been provided), and

the earlier competitively selected proposal did not involve any consideration that the project would receive PBV assistance.

DHC will advertise its Request for Proposals (RFP) for new, rehabilitated, or existing housing in accordance with applicable language within DHC Procurement Policy. The RFP will specify the following information:

1. Selection Process.
2. General evaluation and selection criteria for the proposals.
3. Proposal Selection Date.
4. Final Selection Notification.
5. 25 percent Cap on PBV Units in a project.
6. Supportive Services.
7. Site Selection Standards.
8. Execution of the Agreement to Enter into AHAP.
9. Evidence of Completion.
10. Execution of HAP Contract.
11. Term of HAP Contract.
12. Additional Housing Quality and Design Requirements.
13. Remedies for HQS Violations.
14. Vacancy Payments.
15. Eligibility for PBV Assistance.
16. Organization of the Waiting List.
17. Preferences.
18. Filling Vacancies.
19. Reduction in HAP Contract Units Due to Vacancies.
20. Tenant Screening.
21. Overcrowded, Under-Occupied, and Accessible Units

Proposals will be reviewed on a first-come, first-served basis. DHC will evaluate each proposal on its merits using the following criteria:

- The extent to which the project furthers DHC's goal of de-concentrating poverty and expanding housing and economic opportunities; and
- Such other factors as DHC may deem appropriate.

**18-2B. DHC-OWNED UNITS [24 CFR 983.51(e) and 983.59]**

A DHC-owned unit may be assisted under the PBVP only if the HUD field office or a HUD-approved independent entity reviews the selection process and determines that DHC-owned units were appropriately selected based on the selection procedures specified in DHC's Admin Plan. If DHC selects a proposal for housing that is DHC-owned or controlled, DHC will identify the independent entity that will review the

proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of DHC-owned units, the initial contract rent will be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, housing quality standards inspections will be conducted by an independent entity.

The independent entity that performs these program services will be a HUD-approved public or private entity.

## 18-2C HOUSING TYPE [24 CFR 983.52]

DHC may use PBV assistance for existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a HAP Contract that was executed before the start of construction.

DHC must decide what housing type, new construction, rehabilitation, or existing housing will be used to develop PBV housing. DHC's choice must be reflected in any solicitation for proposals.

### 18-2 D. INELIGIBLE UNITS [24 CFR 983.53 and 983.52]

Ineligible units for PBV assistance include those that are:

- Shared housing.
- Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institutions.
- Nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (However, a dwelling unit in an assisted living facility that provides home health care services is eligible).
- College or other school dormitories.
- Manufactured homes.
- Cooperative housing
- Transitional housing.
- Public housing.
- Unit subsidized with any other form of Section 8 Assistance.

- Unit subsidized with any governmental rent subsidy.
- Units already subsidized by another form of project-based Section 8, Section 236 rental assistance, or Section 521 rental assistance; or subsidized by Section 202, Section 162, Section 811, or Section 101 Rent Supplement.

In addition, DHC may not attach or pay PBV assistance for a unit occupied by an owner. DHC may not select or enter into an agreement to enter into a HAP contract or a HAP Contract for a unit occupied by a family ineligible for participation in the PBVP. DHC may not select any units in which construction or rehabilitation has commenced as defined in 24 CFR 983.152 after proposal submission and prior to execution of an AHAP.

### 18-2E. HIGH-RISE ELEVATOR PROJECTS FOR FAMILIES WITH CHILDREN [24 CFR 983.53(B)]

DHC, in its sole discretion, may use high-rise elevator building for families with children if it makes a determination that there is no practical alternative and HUD approves DHC's determination. DHC will review each such project on a case-by-case basis.

## 18-2F. SUBSIDY LAYERING REQUIREMENTS FOR NEW CONSTRUCTION AND REHABILITATED HOUSING [24 CFR 983.55]

DHC will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBVP with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

DHC will submit the necessary documentation to HUD for a subsidy layering review. Except in cases of HAP Contracts for existing structures, or if the subsidy layering review has been conducted by the applicable state or local agency, DHC may not enter into an agreement to enter an AHAP contract or a HAP Contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements.

The HAP Contract must contain the owner's certification that the project has not received and will not receive, before or during the term of the HAP Contract, any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## 18-2G. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

1. 25% per Project Cap [24 CFR 983.56(a)]

In general, DHC may not select a proposal to provide PBV assistance for units in a building or enter into an agreement to enter into a HAP or a HAP Contract to provide PBV assistance for units in a building, if the total number of dwelling units in the building that will receive PBV assistance during the term of the PBV HAP Contract is more than the greater of 25 units or 25% of the number of dwelling units, assisted or unassisted, in the the project.

2. Exceptions to 25% Project Cap

Exceptions are allowed and PBV units will not be counted against the 25% or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
- The project is located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey Five-Year Estimates

For these projects, the project cap is greater of 25 units or 40%, instead of 25%, of the units.
Supportive Services – under consideration

3. Promoting Partially Assisted Buildings [24 CFR 983.56(c)]

A partially assisted building is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3]. At this time, DHC will not set a certain percentage for partially assisted buildings but will review each project on a case-by-case basis.

## 18-2H. SITE SELECTION STANDARDS

1. Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

It is DHC's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In meeting this goal, DHC will limit approval of sites for PBV housing to census tracts that have poverty concentrations of 20% or less as HUD defines areas of 20% or less of poverty to be de-concentrated areas.

However, DHC will grant exceptions to the 20% standard where DHC determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate- poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than 20%, such as sites in:

- A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.
- A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment.
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area.
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area.
- A census tract where there has been an overall decline in the poverty rate within the past 5 years.
- A census tract where there are meaningful opportunities for educational and economic advancement.
- Redevelopment and reuse of existing building not previously used as housing; or
- Development of unique affordable housing types not currently offered or offered on a limited basis within DHC's jurisdiction.

2. Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

DHC will not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract for existing or rehabilitated housing until it has determined that the site complies with HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- Have adequate utilities and streets available to service the site.
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.
- Have an architect's certification affirming that the project meets accessibility requirements.

3. New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed.
- The site must have adequate utilities and streets available to service the site.
- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area.
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate.
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

    An architect's certification of the plans and specifications as well as a certification upon construction completion affirming that the project meets accessibility requirements.

## 18-2 I. Environmental Review [24 CFR 983.58]

DHC activities under the PBVP are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). DHC may not enter into an agreement to enter into a HAP contract nor enter into a HAP Contract until it has complied with the environmental review requirements. Projects that fail the environmental review will be rejected by DHC.

In the case of existing housing, the responsible entity that is responsible for an environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental

Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

DHC may not enter into an agreement to enter into a HAP contract or a HAP Contract with an owner, and DHC, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

DHC must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. DHC will require the owner to carry out all mitigating measures required by the responsible entity, or HUD, if applicable, as a result of the environmental review.

## PART III: REHABILITATED AND NEWLY CONSTRUCTED UNITS

## 18-3A. AGREEMENT TO ENTER INTO A HAP CONTRACT

In order to offer PBV assistance in rehabilitated or newly constructed units, DHC must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(a)].

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and DHC agrees that upon timely completion of such development in accordance with the terms of the Agreement, DHC will enter into a HAP Contract with the owner for the contract units [24 CFR 983.152(b)].

1. *Content of the Agreement [24 CFR 983.152(c)]*

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBVP:

- Site and the location of the contract units.
- Number of contract units by area (size) and number of bedrooms and bathrooms.
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent.
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant.
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement.
- Estimated initial rents to owner for the contract units.

- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by DHC, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

*2. Execution of the Agreement [24 CFR 983.153]*

The Agreement must be executed promptly after DHC receives both environmental approval and notice that the subsidy layering requirements have been met, and before construction or rehabilitation work is started.

## 18-3 B. LABOR STANDARDS [24 CFR 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner 's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. DHC will monitor compliance with labor standards.

## 18-3C. EQUAL OPPORTUNITY [24 CFR 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

## 18-3 D. OWNER DISCLOSURE [24 CFR 983.154(d) and (e)]

The Agreement and HAP Contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.
The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract, or HUD regulations.

## PART IV: DWELLING UNITS

## 18-4 A. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBVP. The physical condition standards at 24 CFR 5.703 do not apply to the PBVP.

## 18-4B. LEAD-BASED PAINT [24 CFR 983.101(c)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBVP. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBVP.

## 18-4D. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DHC will ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C. Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

## 18-4E. EVIDENCE OF COMPLETION [24 CFR 983.155(b)]

The Agreement will specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement will also specify the deadline for submission by the owner of the required evidence of completion. At a minimum, the owner must submit the following evidence of completion to DHC in the form and manner required by DHC:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

DHC may, in its sole discretion, specify within the Agreement additional documentation that must be submitted by the owner as evidence of housing completion.

## 18-4F. DHC ACCEPTANCE OF COMPLETED UNITS [24 CFR 983.156]

Upon notice from the owner that the housing is completed, DHC will inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. Additionally, DHC will verify that the owner has submitted all required evidence of completion. If the work is not completed in accordance with the Agreement, DHC will determine if deficiencies are correctable, lay out correction requirements and conditions for acceptance, and promptly notify the owner. If DHC determines that the deficiencies are not correctable, the Agreement is not enforceable and DHC will not enter into the HAP Contract. However, if DHC determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, DHC will submit the HAP Contract for execution by the owner and then execute the HAP Contract.

## 18-4 G. DHC INSPECTION OF UNITS

1. Pre-selection Inspection [24 CFR 983.103(a)]

DHC will examine the proposed site before the proposal selection date. If the units to be assisted already exist, DHC will inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, DHC will not execute the HAP Contract until the units fully comply with HQS.

2. Pre-HAP Contract Inspections [24 CFR 983.103(b)]

DHC will inspect each contract unit before execution of the HAP contract. DHC will not enter into a HAP contract covering a unit until the unit fully complies with HQS.

3. Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, DHC must inspect the unit. DHC will not provide assistance on behalf of the family until the unit fully complies with HQS.

4. Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP Contract, DHC must inspect a random sample, consisting of at least 20% of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than 20% of the annual sample of inspected contract units in a building fails the initial inspection, DHC will re-inspect 100 percent of the contract units in the building.

5. Other Inspections [24 CFR 983.103e]

DHC will inspect contract units whenever needed to determine that the contract units comply with HQS, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP Contract. DHC must consider complaints and any other information coming to its attention in scheduling inspections.
DHC will conduct follow-up inspections needed to determine if the owner or, if applicable, the family, has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of HQS.

6. Inspecting DHC-Owned Units [24 CFR 983.103(f)]

In the case of DHC-owned units, the inspections will be performed by an independent agency designated by DHC and approved by HUD. The independent entity must furnish a copy of each inspection report to DHC and to the HUD field office where the project is located. DHC will take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by DHC.

## PART V: HAP CONTRACT

## 18-5 A. PURPOSE OF HAP CONTRACT [24 CFR 983.202]

DHC will enter into a HAP Contract with an owner for units that are receiving PBV assistance. The purpose of the HAP Contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term. The HAP Contract must be in the form required by HUD [24 CFR 983.202].

## 18-5B. HAP CONTRACT REQUIREMENTS

1. Contract Information [24 CFR 983.203]

The HAP Contract must specify the following information:

HAP Contract Part I

- Exhibit A
    - The total number of contract units by number of bedrooms.
    - The project ‘s name, street address, city or county, state and zip code, block, and lot number, if known, and any other information necessary to clearly identify the site and the building.

- The number of contract units in each building by bedroom size as well as accessibility for persons with disabilities.
- Maximum number of units by bedroom size and type that may receive assistance at any time.
- Multi-stage projects must include a description for units in each completed phase.

- Exhibit B
  - Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner.
  - Supportive services and/or referrals to be provided at the property.
- 
- Exhibit C
  - Utilities available to the contract units, including a specification of utility services to be paid by the owner, included in rent, and utility services to be paid by the tenant.
- Exhibit D
  - Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8.
- Additional Exhibits
  - As determined and/or required by DHC.
- Identify if this property requires a Single or Multi-Stage HAP Contract
  - Single stage - the HAP Contract is executed upon acceptance of all of the units.
  - Multi-Stage
    - HAP Contract must identify the specific units for each stage.
    - HAP Contract is executed upon acceptance of units in the first stage.
    - The effective date of the first stage establishes the initial term of the HAP Contract as well as the anniversary date for each subsequent stage of the HAP Contract.

HAP Contract Part II

- The HAP Contract term; and
- The initial rent to owner for the first 12 months of the HAP Contract term.

2. <u>Execution of the HAP Contract</u> [24 CFR 983.204]

DHC will not enter into a HAP Contract until each contract unit has been inspected and DHC has determined that each unit complies with HQS. For existing housing, the HAP Contract will be executed promptly after DHC selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP Contract will be executed promptly after DHC has inspected the completed units and has determined

that the units have been completed in accordance with the Agreement and the owner furnishes all required evidence of completion.

The HAP Contract must be in the form required by HUD (see 24 CFR 982.162). The purpose of the HAP Contract is to provide housing assistance payments for eligible families. DHC will make housing assistance payments to the owner in accordance with the HAP Contract and housing assistance will be paid for contract units leased and occupied by eligible families during the HAP Contract term.

3. Term of HAP Contract [24 CFR 983.205]

- The length of the Initial Term of the HAP Contract for any contract unit may not be less than one (1) year or more than twenty (20) years. The length of the term of a HAP contract for any contract unit may not be less than one year, nor more than twenty. In the case of DHC owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD. If the owner desires to extend the HAP Contract beyond the Initial Term, no later than one (1) year before expiration of the Initial Term, the owner must submit, in writing, a request for an extension of the HAP Contract. Provided, that extensions of a HAP Contract may not exceed -20 years cumulatively, Extensions after the initial extension are allowed provided that the owner requests an extension, in writing, and DHC approves the extension not more than 24 months prior to the expiration of the previous extension. When determining whether or not to extend an expiring PBV contract, DHC will consider several factors including, but not limited to:
- The cost of extending the contract and the amount of available budget authority.
- The condition of the contract units.
- The owner's record of compliance with obligations under the HAP contract and lease(s).
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

DHC may agree, in its sole discretion, to extend the term of the HAP Contract in 5-year increments if DHC determines (1) an extension is appropriate to continue providing affordable housing for low-income families, or (2) to expand housing opportunities, and (3) that the owner is in compliance with the terms of the HAP Contract.

4. Termination by DHC [24 CFR 983.205(c)]

The HAP Contract must provide that the term of DHC's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by DHC in accordance with HUD's instruction. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such

appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract. The HAP Contract may be terminated by DHC if it is determined that there are insufficient funds available to fulfill the term of DHC's contractual commitment. Furthermore, if it is determined by DHC that there are insufficient funds to continue the housing assistance payments for all contract units and for the full term of the HAP Contract, DHC may terminate the HAP Contract by notice to the owner for all or any of the contract units. The termination must be implemented in accordance with HUD instructions.

*5. Termination by Owner [24 CFR 983.205(d)]*

The owner may terminate the HAP Contract, upon notice to DHC, if the amount of the rent to owner for any contract unit, as adjusted in accordance with HUD regulations (24 CFR 983.302), is reduced below the amount of the initial rent to owner. In this case, DHC will offer the assisted family's tenant-based HCV vouchers.

6. Remedies for HQS Violations [24 CFR 983.207(b)]

DHC will abate and terminate HAP Contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

## 18-5C. HAP CONTRACT AMENDMENTS CFR 983.207

1. Substitution of Contract Units [24 CFR 983.206(a)]

DHC and the owner will designate the units that will receive the project-based assistance. After the units have been designated, DHC may amend the HAP Contract to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit.

*2. Addition of Contract Units [24 CFR 983.206(b)]*

DHC may amend the HAP Contract during the 3-year period following the execution date of the HAP Contract to add contract units in the same project to the HAP Contract when DHC determines that additional housing is needed to serve eligible low-income families. Any additional units must (1) be inspected, (2) meet rent reasonableness criteria, (3) not cause the project to exceed 25% of the total number of dwelling units in the project (assisted and unassisted) unless the units were initially identified in the HAP Contract as excepted from the 25% limitation, and (4) not cause DHC to exceed the 20% of its PBV budget authority. No new proposal is required. The anniversary and expiration date of the HAP Contract for the additional units must be the same as the anniversary and expiration date of the units originally placed under the HAP Contract.

## 18-5D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES

**[24 CFR 983.206(c) and 983.302(e)]**

The HAP Contract year is the period of 12 calendar months preceding each anniversary date of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract term. The anniversary date of the HAP Contract is the first day of the first calendar month after the end of the preceding contract year. There is a single anniversary date and expiration date for all units under a particular HAP contract. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

## 18-5E. CONDITION OF CONTRACT UNITS [24 CFR 982.207]

The owner must maintain and operate the contract units and premises in accordance with HQS, including performance or ordinary and extraordinary maintenance. The owner must provide all services, maintenance equipment, and utilities specified in the HAP Contract with DHC and the lease with each assisted family.

## 18-5F. OWNER RESPONSIBILITIES [24 CFR 983.208]

The owner is responsible for the following:

- Complying with Equal Opportunity requirements.
- Performing all owner obligations under the HAP Contract and the lease.
- Preparing and furnishing to DHC information required under the HAP Contract.
- Enforcing tenant obligations under the lease.
- Paying for utilities and services unless paid by the assisted family under the terms of the lease; and
- Collecting from the family:
    - •Any security deposits.
    - •Tenant rent contribution; and
    - •Any charges for unit damage by the assisted family.

## 18-5G. REASONABLE MODIFICATIONS OF EXISTING PREMISES [24 CFR 100.203]

Owners shall permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling.

The owner may, where reasonable to do so, may condition permission for a modification on the assisted family agreeing to restore the interior of the premises to the condition that existed prior to the modification, reasonable wear and tear excepted, and the owner may not increase, for handicapped persons, any customarily required security deposits.

The owner may condition permission for a modification on receiving from the assisted or to be assisted family a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

## 18-5H. OWNER CERTIFICATION [24 CFR 983.209]

By execution of the HAP Contract, the owner certifies with DHC that at such execution and at all times during the term of the HAP Contract:

- All assisted units meet HQS standards, and the owner is maintaining the premisesand all assisted units in accordance with HQS.
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases with the assisted families.
- Each contract unit for which the owner is receiving HAP payments is leased to an eligible family referred by DHC, and the lease is in accordance with the HAP contract, HUD requirements and approved by DHC.
- The owner acknowledges that members of the assisted family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of the assisted family residing in the contract unit.
- The amount of the housing assistance payment is the correct amount due under the HAP Contract.
- The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.
- As provided under the HAP Contract, the owner will not receive any payment or other consideration from the family, DHC, HUD, or any other public or private source for rental of the contract unit; and
- The assisted family does not own or have an interest in the contract unit.

## 18-5 I. HOUSING QUALITY AND DESIGN REQUIREMENTS [24 CFR 983.101(e) and 983.207(a)]

DHC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. DHC will specify any special design standards or additional requirements in the invitation for PBV proposals, the Agreement, and the HAP Contract.

## PART VI: PBV PARTICIPANT SELECTION [24 CFR 983.251]

### 18-6 A. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Eligibility for admission must be determined at the commencement of PBV assistance. Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and DHC, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security number information for family members [24 CFR 5.216 and 5.218]. The following household members are exempt from the SSN disclosure requirements:

1. Individuals who do not contend eligible immigration status ("non-contending" family members in a mixed family paying prorated rent).
2. Current residents who had not previously disclosed an SSN, and who were at least 62 years old on January 31, 2010. The exemption applies to all future reexaminations and continues if the individual transfers to a new unit or receives another form of housing assistance.
3. Household members who have already provided a valid SSN prior to January 31, 2010.

and consent to DHC's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family must also meet HUD requirements related to current or past criminal activity. DHC must determine the applicant's PBV eligibility.

DHC may establish and manage separate site-based waiting lists for individual projects or buildings that receive DHC project-based assistance. DHC may require the owner to establish procedures necessary to manage the application process including but not limited to marketing and advertising to maintain a sufficient number of prospective participants. The application process must be accordance with DHC's Administrative Plan

PBV waiting list will remain open for owner referrals. DHC will place owner referrals on the site-based waiting list based upon the waiting list protocol. Owners of properties participating in the PBVP will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC

- The owners Tenant Selection Plan must include:
    - DHC's Section 8 Program Eligibility Requirements.

- DHC established Preferences.
- Authorization for the release of Information/Privacy Act.
- HUD-approved Fair Housing Waiting List Marketing Plan.

DHC 's website will maintain a list of all approved project-based voucher developments.Currently, DHC has two developments receiving project-based voucher assistance:

- Woodbridge Senior Manor
- AAL/Rivertown

The PBV waiting lists will remain open for owner referrals. DHC will place owner referrals on the site-based waiting lists based upon the waiting list protocol.

Owners of properties participating in the Project-Based Voucher Program will be required to establish and maintain a written Tenant Selection Plan which must be approved by DHC. The owner's Tenant Selection Plan must include:

Project eligibility requirements
• Project-specific requirements
• Income limits
• Procedures for accepting applications from the waitlist
• Procedures for applying any preferences
• Applicant screening criteria
  - Required drug-related or criminal activity criteria.
  - Other allowable screening criteria; and
• Procedures for rejecting ineligible applicants
• Occupancy standards
• Unit transfer policies, including selection of in-place residents versus applicants from the waiting list when vacancies occur
• Policies to comply with Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act and other relevant civil rights laws and statutes
• Marketing Plan

## 18-6B. IN-PLACE FAMILIES PREFERENCE [24 CFR 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by DHC is considered an in-place family. These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract, either an existing unit or a unit requiring rehabilitation, is occupied by an eligible family on the date the proposal is selected, the in-place family will be placed on DHC's waiting list for that site. Once the family 's continued eligibility is determined (DHC may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and DHC will refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the PVBP on the proposal selection date.

## 18-6C. SELECTION FROM THE WAITING LIST [24CFR 983.251(c)]

Applicants who will occupy PBV units must be selected by DHC from the site-based waiting list.

At least 75% of the families admitted to DHC's PBVP during DHC's fiscal year from the waiting list must be extremely low-income families.

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DHC will first refer families who require such features to the owner.

## 18-6D. SITE-BASED WAITING LISTS AND PREFERENCES [24 CFR 983.251(d)]

DHC may use the same selection preferences that are used for the tenant-based voucher program, or it may establish different preferences for any site-based waiting list.

DHC will administer separate site-based waiting lists for each of its project-based voucher (PBV) sites. These separate site-based waiting lists may be on a project or building basis. DHC may establish preferences for each PBV waiting list it administers tailored for each site. Preferences may be based on specific characteristics of the project, building or funding source.

DHC will provide an absolute selection preference for eligible in-place families. DHC may deny assistance to these families under the circumstances specified at 24 CFR 983.251(b).

If there is a project with more than the higher of 25 units or 25% of the units receiving project-based assistance because those projects include units specifically made available for elderly or disabled families, DHC will give preference to such families when referring families to these units [24 CFR 983.261(b)].

**Preferences**

DHC may provide preferences on the PBV waiting lists to families that need specific services provided in property specific supportive housing including seniors, families needing supportive services related to specific disabilities, veterans or families needing assisted living as defined in the project's HAP contract. DHC will verify preferences at the time of eligibility. If the family does not meet the preference, DHC may not place them back on the site waiting list.

If DHC has projects with "excepted units" for elderly families or supportive services, DHC must give preference to such families when referring to these projects.

Applicant families that come within one or more of the following categories will be given a preference as appropriate based upon the project's HAP Contract:

- **Working Preference**
  Applicant family must work a minimum number of hours as defined by specific characteristics of the project, building or funding source, generally this means at least 20 hours per week. This requirement may be met by a combination of work and no more than 10 hours per week in volunteer activities or enrollment in an accredited education, employment, and job training program.

- **Disabled or Elderly Preference**
  Be a person with disabilities or over 62 years.

- **Geographic Preference**
  Live or work in the neighborhood of projects receiving PBV assistance (to be determined on a project-by-project basis).

- **Families in Need of Supportive Services Preference**
  Include persons Families with disabilities who need services offered at a particular project or building if:
  The family includes a member with disabilities that significantly interfere with the ability to obtain and maintain themselves in housing; and
  Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
  For whom such services cannot be provided in a non-segregated setting.

- **Homeless Preference**
  Families and children who are homeless or are at imminent risk of homelessness.

- **Domestic Violence Preference**
  Victims of domestic violence, as defined in the Violence Against Women Act, who are displaced as a result of the domestic violence.

- **Veterans Preference**
  Families including a member who is a veteran of the United States Armed Forces.

- **Medical Condition Preference**
  Families including a member who has a medical condition that falls with the restrictions imposed by the funding of a specific project or building, i.e., project requires participants to have a Medicare waiver.

- **Other Preferences**
  Families including a member who falls within the specific category for which a project or building has been awarded funding.

## 18-6E. OFFER OF PBV ASSISTANCE

*1. Refusal of Offer [24 CFR 983.251(e)(3)]*

DHC is prohibited from taking any of the following actions against a family that has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance.
- Deny any admission preference for which the applicant qualifies.
- Change the applicant ‘s place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DHC’s selection policy; or
- Remove the applicant from the tenant-based voucher waiting list.

Once an applicant has refused assistance for an individual PBV site or has been denied by the owner, the applicant will be removed from the waiting list for that site but shall remain on any other DHC PBV and/or tenant-based voucher waitlists to which they have applied. Applicants can refuse units for “good cause” and not suffer an adverse action. Good cause is defined as follows:

1. Unit lacks accessibility features required by a person with disabilities.
2. Serious illness, hospitalization.

3. Death of a family member.

*2. <u>Disapproval by Landlord</u> [24 CFR 983.251(e)(2)]*

If a PBV owner rejects a family for admission to the owner ‘s units, such rejection may notaffect the family ‘s position on the tenant-based voucher waiting list.

*3. <u>Acceptance of Offer</u> [24 CFR 983.252]*

When a family accepts an offer for PBV assistance, DHC will give the family an oral briefing. The briefing must include the following:

1. Information on how the PBVP works and the responsibilities of the family and owner.
2. In addition to the oral briefing, DHC must provide a briefing packet that explains How DHC determines the total tenant payment for a family.
3. DHC Utility allowances.
4. The family obligations under the PBVP.
5. Applicable fair housing information.
6. Violence against Women Act (VAWA).
7. When DHC may terminate assistance.
8. Rights to and how to obtain an informal hearing.
9. Provide the family with lead-based paint hazard information if the housing was built prior to 1978 except for a zero-bedroom dwelling, or housing designated for the elderly or persons with disabilities (unless a child less than six is expected to live in such designated housing).
10. Explain that subsidy is tied to the property, but the family may be eligible for a tenant-based voucher after one year of occupancy; and
11. Obtain the family’s signature on the PBV Program Statement of Family Responsibility (maintain a copy for the tenant file and provide a copy to the family).

When performing the briefing, DHC must:

1. Take appropriate steps to ensure effective communication in conducting briefings and in providing written information for persons with disabilities.
2. Take reasonable steps to ensure meaningful access to housing by persons with limited English proficiency.

## 18-6F. OWNER SELECTION OF TENANTS

*1. Selection Procedures*

The owner is responsible for marketing and advertising the waitlist in accordance with the DHC Administrative Plan, taking applications and forwarding them to DHC to be added to the PBV waiting list and for developing written tenant screening and selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant 's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant and DHC of the grounds for any rejection [24 CFR 983.253(b)]. If DHC determines that the owner is rejecting families without good cause or in violation of the law, DHC will require corrective action. If it is determined that the owner's actions appear to be discriminatory, DHC will suspend or terminate the PBV HAP Contract.

*2. Leasing [24 CFR 983.253(a)]*

During the term of the HAP Contract, the owner must lease contract units to eligible families that are selected and referred by DHC from DHC's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DHC's subsidy standards.

*3. Filling Vacancies [24 CFR 983.254(a)]*

The owner must promptly notify DHC in writing via mail, fax, or e-mail within 10 business days of learning about any vacancy or expected vacancy in a contract unit. After receiving such notice, DHC will make every reasonable effort to promptly refer a sufficient number of eligible families of the appropriate size from the DHC waiting list to fill the vacancies. DHC and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy. DHC will accept written referrals from the owner to be placed on the waiting list.

The owner must lease the vacant contract units to only eligible families referred from the waiting list by DHC.

DHC must determine eligibility for participation in accordance with HUD requirements.

At the discretion of DHC, the number of contract units may be reduced if any contract units have been vacant for a period of 120 days since the owner notice of vacancy and notwithstanding the reasonable good faith efforts of DHC and the owner to fill the vacancies, DHC may give notice to the owner that it is amending the HAP Contract to reduce the number of contract units by subtracting the number of contract units, by number of bedrooms, that have been vacant for such period.

## 18-6 G. TENANT SCREENING [24 CFR 983.255]

- DHC has no responsibility or liability to the owner or any person for the family's behavior or suitability for tenancy and will not conduct screening to determine suitability.
- The owner is responsible for screening and selection of the family to occupy the owner's unit.

- The owner is responsible for screening of families based upon the approved screening criteria previously approved by DHC.
- When screening the family, the owner may consider the family's background with respect to the following factors:
  - Payment of rent and utilities.
  - 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 owner must promptly provide DHC with a copy of any/and all rejection notices provided to a rejected applicant(s) within 30 days of the rejection. The notice must identify the grounds for which the applicant was rejected.
- DHC will provide all owners with the required known name and address information at the time of the turnover HQS inspection or before but will not provide any additional information to the owner such as tenancy history, criminal history, etc.
- DHC will provide families with a copy of its policy on providing information to owners; and
- A family may file a discrimination complaint with the HUD field office against the owner, it they believe they have been discriminated against.

## PART VII: LEASE [24 CFR 983.256]

### 18-7 A. General Requirements

The lease between the family and owner must be accordance with HUD regulations and requirements and include all provisions required by HUD and not include any provisions prohibited by HUD.

As per 24 CFR 983.256(d), the lease must include all the program requirements, composition of the approved household, and the HUD approved Tenancy Addendum. The terms of the Tenancy Addendum prevail over other provisions of the lease. DHC will review the dwelling lease for compliance with applicable requirements.

The initial term of the lease must be for not less than one year. Changes in the lease must be approved in writing by the tenant and the owner and immediately delivered to DHC.

*1. <u>Initial Term and Lease Renewal</u> [24 CFR 983.256(f)]*

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for "good cause", or refuse to renew the lease without good cause. Terminating tenancy for good cause does not include doing so for a business or economic reason, or a desire to use the unit for

personal or family use or other non-residential purpose. If the owner refuses to renew the lease without good cause, DHC must provide the family with a tenant-based voucher and remove the unit from the owner's PBV HAP Contract.

*2. Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]*

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by DHC policy. According to HCV Program requirements, the family 's assistance must be terminated if they are absent fromthe unit for more than 180 consecutive days.

*3. Security Deposits [24 CFR 983.258]*

The owner may collect a security deposit from the tenant. DHC prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted tenants. When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease. The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant.

DHC has no liability or responsibility for payment of any amount owed by the family to the owner.

## 18-7 B. MOVES

*1. Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]*

If DHC determines that a family is occupying a wrong size unit, based on DHC's subsidy standards, or occupying a unit with accessibility features that the family does not require and the unit is needed by a family that does require the features, DHC will notify the family and the owner of this determination, and DHC will offer the family the opportunity to receive continued housing assistance in another unit.

The family not in need of accessible features must move to another unit within the building or complex so that the accessible features can be utilized by the family in need of such features. If a comparable unit is not available, a tenant-based voucher may be offered if DHC has the budget authority and/or voucher utilization available. In the event that the family refuses to move to a comparable unit within the complex within a reasonable amount of time, as determined by DHC to be not more than 120 days from date of notice, continued assistance will be denied. DHC will also terminate housing assistance payments to the owner.

If DHC offers the family a tenant-based voucher, DHC will terminate the housing assistance payments for a wrong-sized or accessible unit at the expiration of the term of the family ‘s voucher including any extension granted by DHC.

If DHC offers the family a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DHC, or both, DHC will terminate the housing assistance payments for the unit at the end of the month in which the 120 days from the date of the notice expires. When DHC offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and another 30 days to move to the offered PBV unit. If the family does not move out within this 30-day time frame, DHC will terminate the housing assistance payments at the expiration of this 30-day period.

DHC may make exceptions to this 30-day period if needed for reasons beyond the family ‘s control such as death, serious illness, reasonable accommodations, or other medical emergency of a family member.

*2. Family Right to Move [24 CFR983.260]*

The family may terminate the lease at any time after the first year of occupancy and the family must give the owner at least 30 days advance, written notice of intent to vacate, in accordance with the lease, with a copy to DHC. If the intent to vacate language is not described in the lease, then a 30-day notice, at a minimum, is required.

If the tenant elected to terminate the lease in this manner, DHC will offer the family other comparable assistance at another project-based development or an opportunity for continued assistance under the HCV Program, if funding is available.

Before the family provides notice of intent to move to the owner, the family must contact DHC to request comparable tenant-based rental assistance if the family wishes to move with continued assistance.

If the family terminates the assisted lease before the end of one (1) year, the family relinquishes the opportunity for continued housing assistance.

## 18-8. DETERMINING RENT TO OWNER [24 CFR 983.301]

### 18-8 A. DHC PAYMENT TO OWNER FOR OCCUPIED UNIT [24 CFR 983.351]

During the term of the HAP Contract, DHC shall make housing assistance payments to the owner in accordance with terms of the HAP Contract. The payments shall be made for the months during which a contract unit is leased to and actually occupied by an eligible family.

DHC may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit even if goods or property are left in the unit.

DHC shall make housing assistance payments to the owner for each contract unit that complies with HQS and is leased to and occupied by an eligible family in accordance with the HAP Contract.

### 18-8B. VACANCY PAYMENT [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment payable for the calendar month when the family moves out as long as DHC does not determine that the vacancy is the owner's fault. This is the only vacancy payment DHC will make.

### 18-8C. TENANT RENT; PAYMENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent paid by the family. Any changes in the amount of tenant rent will be effective on the date stated in DHC's notice to the family and owner.

The family is responsible for paying the tenant rent which is the total tenant payment minus the utility allowance. The amount of the tenant rent determined by DHC is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by DHC. The owner must immediately return any excess payment to the tenant.

The family is not responsible for payment of the portion of rent to owner covered by the housing assistance payment under the HAP Contract and the owner may not terminate the tenancy of an assisted family for non-payment of DHC's housing assistance payment.

DHC is only responsible for making housing assistance payments to the owner on behalf of a family in accordance with

the HAP Contract.

If the amount of the utility allowance exceeds the total tenant payment, DHC will pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner will be zero.

### 18-8D. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units, as discussed below, the rent to owner ***must not exceed the lowest of*** the following amounts:

- An amount determined by DHC not to exceed 110% of the applicable FMR or any HUD-approved exception payment standard for the unit bedroom size minus any utility allowance.
- The reasonable rent; or
- The rent requested by the owner.

- DHC may elect to adopt the use of Small Area Fair Market Rents (SAFMRs) in an entire metropolitan area or specified codes. In doing so, DHC will consider whether to apply the SAFMRs to the PBV program within a designated metropolitan area or specified zip code.

## 18-8E. CERTAIN TAX CREDIT UNITS [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a LIHTC under the Internal Revenue Code of 1986.
- The contract unit is not located in a qualified census tract.
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a DHC-determined amount not to exceed 110% of the fair market rent or any approved exception payment standard.

For contract units that meet all of these criteria, the rent to owner ***must not exceed the lowest of:***

1. The tax credit rent minus any utility allowance.
2. The reasonable rent; or
3. The rent requested by the owner.

## 18-8F. USE OF FMRs, EXCEPTION PAYMENT STANDARDS, AND UTILITY ALLOWANCES [24 CFR 983.301(f)]

*1. Use of FMRs and Utility Allowances in Establishing Rent*

When determining the initial rent to owner, DHC will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP Contract. When redetermining the rent to owner, DHC will use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination.

Within its sole discretion, upon a written request from the owner, DHC may, for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP Contract, or for redeterminations of rent, the 30-day period immediately before the redetermination date. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. DHC will review and make a decision based on the circumstances and merit of each request.

DHC may decide to use the FMR or utility allowances in effect during the 30-day period before the start date of the HAP Contract, or the redetermination of rent, if DHC determines it is necessary due to DHC budgetary constraints.

2. *Exception Payment Standard and Utility Allowances Same as in the Tenant-Based Voucher Program*

Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the PBVP. HUD will not approve a different exception payment stand amount for use in the PBVP. Likewise, DHC will not establish or apply different utility allowance amounts for the PBVP.

## 18-8G. REDETERMINATION OF RENT [24 CFR 983.302]

4. *Rent Increase*

If an owner wishes to request an increase in the rent to owner from DHC, it must be requested at least 60 days before the anniversary date of the HAP Contract and must include the new rent amount the owner is proposing. The request must be in writing and in the form and manner required by DHC. DHC may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBVP for special adjustments, e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs.

DHC will not approve, and the owner may not receive any increase of rent until and unless the owner has complied with requirements of the HAP Contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of non-compliance.

5. *Rent Decrease*

If there is a decrease in the rent, as required in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent must be decreased regardless of whether the owner requested a rent adjustment. DHC has elected to not decrease rents below the Initial Term level except when the redetermination of rent to owner a result of is:

1. To correct errors in calculations in accordance with HUD requirements.
2. If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP Contract and a rent decrease is required; or

3. If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and tenant.

*6. Notice of Rent Change*

The rent is redetermined by written notice by DHC to the owner specifying the amount of the redetermined rent. DHC's notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP Contract. The adjusted amount of rent to owner applies for the period of 12 calendar months from the anniversary date of the HAP Contract. DHC will provide the owner with at least 30 days written notice of any change in the amount of rent.

*7. DHC-Owned Units [24 CFR 983.301(g)]*

For DHC-owned PBV units, the initial rent, and the annual redetermination of rent at the anniversary date of the HAP Contract will be determined by the independent entity approved by HUD. DHC must use the rent established by the independent entity. The independent entity must provide a copy of the determination of reasonable rent to DHC and the local HUD field office.

## 18-8I. REASONABLE RENT [24 CFR 983.303]

*1. Generally*

At the time the initial rent is established and all times during the term of the HAP Contract, the rent for a contract unit may not exceed the reasonable rent for the unit as determined by DHC.

*2. When Rent Reasonable Determinations are Required*

DHC will redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occurs:

- There is a 5% or greater decrease in the published FMR in effect 60 days before the contract anniversary date for the unit sizes specified in the HAP Contract as compared with the FMR that was in effect one (1) year before the HAP Contract anniversary date.
- DHC approves a change in the allocation of responsibility for utilities between the owner and the tenant.
- The HAP Contract is amended to substitute a different contract unit in the same building; or
- There is any other change that may substantially affect the reasonable rent.

3. *How to Determine Reasonable Rent*

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DHC will consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services, maintenance, and utilities to be provided by the owner.

For each unit, a comparability analysis will use at least three (3) comparable units in the private unassisted market. This may include units in the premises or project that is receiving PBV assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by DHC.

The comparability analysis may be performed by DHC staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

4. *Owner Certification of Reasonable Rent*

By accepting each monthly housing assistance payment, the owner certifies that the rent is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, DHC may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

## 18-8J. EFFECTS OF OTHER SUBSIDY AND RENT CONTROL

## [24 CFR 983.304 and 983.305]

1. *Generally*

In addition to the rent limits discussed in this chapter, other restrictions may limit the amount of rent paid for a PBV unit. In addition, certain types of subsidized housing are not eligible to receive PBV assistance.

2. *Other Subsidy*

At its discretion, DHC may reduce the initial rent because of other governmental subsidies, including grants and other subsidized financing. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program. Rent may not exceed any limitation required to comply with HUD subsidy layering requirements.

For units in any of the following types of federally subsidized projects, the rent may not exceed the subsidized rent (basic rent), or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project.
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action.
- A Section 221(d)(3) below market interest rate (BMIR) project.
- A Section 515 project of the Rural Housing Service; or
- Any other type of federally subsidized project specified by HUD.

*3. Rent Control*

In addition to the rent limits set by PBVP regulations, the amount of rent may also be subject to rent control or other limits under local, state, or federal law.

## 18-8K. OTHER FEES AND CHARGES [24 CFR 983.354]

*1. Meals and Supportive Services*

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent, nor maythe value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner.

*2. Other Charges by Owner*

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## 18-8L. OTHER SPECIAL CIRCUMSTANCES [24 CFR 5.66(f)]

As a means of providing increased security for tenants, PBV assistance may be provided to police officers and other security personnel who may not otherwise be eligible for housing assistance.

Owners must apply to the local HUD office for authorization to house over-income police officers and other security personnel in assisted units. The application must include:

- A statement demonstrating the need for increased security at the development.

- A description of the proposed gross rent for the unit; and
- Any special conditions for occupancy.

# Chapter 19

# PROGRAM ADMINISTRATION RELATED TO

# VIOLENCE AGAINST WOMEAN ACT OF 2013 (VAWA)

## 19-1 INTRODUCTION

### OVERVIEW

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, and Stalking"; 10-I. A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, or Stalking"; and 12-II.F, "Termination Notice."

### DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - The length of the relationship
  - The type of relationship
  - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means:
  - Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent
- The term *stalking* means:
  - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

**PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

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

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

**Notification**

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

PHA Policy

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

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

Therefore, if the PHA makes a determination to deny The PHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD-5382. The PHA will request in

writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

**Documentation**

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

PHA Policy

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

***Perpetrator Documentation***

PHA Policy

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

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

**TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, and stalking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

**VAWA Protections against Termination**

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking

and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.354(b)(4)].
Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].
Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking [24 CFR 5.2005(c)(2)].
Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

**Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]**
VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].
Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].
HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

PHA Policy
In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent

threat to other tenants or those employed at or providing service to a property, the PHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that he or she is an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

**Documentation of Abuse [24 CFR 5.2007]**

PHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX. D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

**Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant" [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

PHA Policy

The PHA will terminate assistance to a family member if the PHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, nonculpable family members.

In making its decision, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

Part IX: Violence against Women Act (VAWA): Notification, Documentation, Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, and stalking; and maintaining the confidentiality of information obtained from victims.

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

## VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

### NOTIFICATION [24 CFR 5.2005(a)]

**Notification to Public**

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)

Contact information for local victim advocacy groups or service providers

**Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

PHA Policy

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet, and at the time the family is admitted to the program. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I. B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may

decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

**Notification to Owners and Managers**

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

PHA Policy

The PHA will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the program and at least annually thereafter.

The VAWA information provided to owners will consist of the notice in Exhibit 16-5 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation.

**DOCUMENTATION [24 CFR 5.2007]**

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

(1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.

(2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

(3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 business days. In determining whether to extend the deadline, the PHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the PHA will be in writing.

Once the victim provides documentation, the PHA will acknowledge receipt of the documentation within 10 business days.

**Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3)The PHA may also request third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have 30 calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. When requesting third-party documents, the PHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given 30 calendar days from the date of the request to provide such documentation.

If the PHA does not receive third-party documentation within the required timeframe (and any extensions) the PHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the PHA will hold separate hearings for the applicants or tenants.

**Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]**
The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

PHA Policy

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, orstalking, the PHA will document acceptance of the statement or evidence in the individual's file.

**Failure to Provide Documentation [24 CFR 5.2007(c)]**
In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

**19-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**
All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

PHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

## EXHIBIT 19-1: SAMPLE NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT, FORM HUD-5380

**[Insert Name of Housing Provider]**

**Notice of Occupancy Rights under the Violence Against Women Act**[1]

### To all Tenants and Applicants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.[2] The U.S. Department of Housing and Urban Development (HUD) is the federal agency that oversees that the housing choice voucher program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

### Protections for Applicants

If you otherwise qualify for assistance under the housing choice voucher program**,** you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

### Protections for Tenants

If you are receiving assistance under the housing choice voucher program**,** you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the housing choice voucher program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

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[1] Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

[2] Housing providers cannot discriminate based on any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

### Removing the Abuser or Perpetrator from the Household

The PHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA or find alternative housing.

In removing the abuser or perpetrator from the household, the PHA must follow federal, state, and local eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### Moving to Another Unit

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

1. **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
2. **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form or may accept another written or oral request.
3. **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violencein the very near future.

   **OR**

   **You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your

transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The PHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The PHA's emergency transfer plan provides further information on emergency transfers, and the PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The PHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the PHA must be in writing, and the PHA must give you at least 14 business days (Saturdays, Sundays, and federal holidays do not count) from the day you receive the request to provide the documentation. The PHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the PHA as documentation. It is your choice which of the following to submit if the PHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the PHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the PHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

**Confidentiality**

The PHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The PHA must not allow any individual administering assistance or other services on behalf of the PHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The PHA must not enter your information into any shared database or disclose your information to any other entity or individual. The PHA, however, may disclose the information provided if:

- You give written permission to PHA to release the information on a time limited basis.
- The PHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the PHA or your landlord to release the information.

VAWA does not limit the PHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the PHA cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted, and your assistance terminated, if the PHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

1. Would occur within an immediate time frame, and

2. Could result in death or serious bodily harm to other tenants or those who work on the property.

If the PHA can demonstrate the above, the PHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

**Other Laws**

VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

**Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violation of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **[insert contact information for any intermediary, if applicable]** or **[insert HUD field office]**.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at: https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf.

Additionally, the PHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your Housing Specialist

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY).

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

**Attachment:** Certification form HUD-5382

## EXHIBIT 19-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act ("VAWA") protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, "professional") from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of "domestic violence," "dating violence," "sexual assault," or "stalking" in HUD's regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, oradministrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. **Date the written request is received by victim:** _____
2. **Name of victim:** _____
3. **Your name (if different from victim's):** _____
4. **Name(s) of other family member(s) listed on the lease:** _____

_____

5. **Residence of victim:** _____
6. **Name of the accused perpetrator (if known and can be safely disclosed):** _____

_____

7. **Relationship of the accused perpetrator to the victim:** _____
8. **Date(s) and times(s) of incident(s) (if known): _):**

_____

_____

10. **Location of incident(s):** _____

In your own words, briefly describe the incident(s):

_____

_____

_____

_____

_____

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature_____Signed on (Date) _____

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## EXHIBIT 19-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)

Attachment: Certification form HUD-5382

**Detroit Housing Commission**

**NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS**

**UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, andstalking.

### Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the Detroit Housing Commission ("DHC"), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **DHC's** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

### Denial of Tenancy

*Protections for applicants***:** Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

### Eviction

*Protections for HCV participants***:** Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in VAWA limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in VAWA limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of

domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in VAWA limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

1) In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

2) Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; 2) Signed by the applicant or tenant; and 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial, or local law enforcement agency,court, or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program.

b. Deny assistance under the covered housing program to the applicant or tenant.

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

**Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

**Lease Bifurcation**

Owners may choose to bifurcate a lease or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

**Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse**

VAWA generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation, or occupancy. (See 24 CFR 5.2005.)

However, VAWA does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does VAWA prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk.
- The nature and severity of the potential harm.
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

**Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release.

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

**Service Providers**

A list of local service providers is attached to this Notice.

**Definitions**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

(1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

(2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and?

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
(1) Fear for the person's individual safety or the safety of others; or
(2) Suffer substantial emotional distress.
**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).
**Attached:**
Legal services and the domestic violence resources for the Metro area

## Domestic Violence/ Sexual Assault Community Providers

**(1) Women In Touch**
Hotline 313-737-7168 Business 313-737-7168
Emergency Services *Support Services * Counseling Services * Children's Services * Community Educational Services

**(2) Universal Empowerment Center for Women, Children and Families Inc.**
Business 313-740-1761
Emergency Services * Legal and Financial Assistance Services * Counseling Services * Housing Services * Support Services *Children's Services *Community Educational Services

**(3) HAVEN**
24-HOUR CRISIS & SUPPORT 248-334-1274 TOLL-FREE CRISIS LINE 877-922-1274
TTY LINE 248-972-2540

Emergency Services *Legal and Financial Assistance Services *Counseling Services * Housing Services *Support Services * Children's Services * Community Educational Services *

**(4) CHASS (Community Health & Social Services Center)**
(a) Southwest Clinic
5635 W. Fort Street
Detroit, MI 48209-3154
Phone: 313-849-3920

(b) CHASS Midtown Center
7436 Woodward Ave.
Detroit, MI 48202
Phone: 313-556-9907

(c) Western International High School Health Center
1500 Scotten
Detroit, MI 48209
Phone: 313-849-5504

Website: www.chasscenter.org
Free and low-cost primary care medical services in both English and Spanish for all ages, whether uninsured or those with Medicaid, Medicare, or private insurance. Offers primary
care and dentistry, mental health services, a domestic violence program and nutrition classes.

**(5) YWCA INTERIM HOUSE**
Phone: 313-861-5300 24-Hour Crisis Line
P.O. Box 21904
Detroit, MI 48221
One of the largest shelters in Michigan whose mission is to empower survivors of domestic violence and sexual assault by helping them to realize their ability to control their lives. Offers a 67-bed shelter and many resources as well as referrals to needed services.

**(6) YWCA Sexual Assault & Advocacy Services (SAAS)**
Phone: 313-285-9032 24 Hour Help Line: 313-861-5300
985 E. Jefferson Ave #102
Detroit, MI 48207
Website: www.ywcadetroit.org
Supportive Counseling *Emergency Intervention Services*Advocacy and Support Services*Public Awareness * System Change

**(7) Providence Family Life Center**

Phone: 1-888-519-9202
18600 Florence Street, Suite B5
Roseville, MI 48066
Email: providenceprograms@gmail.com
Website: www.providencefamilylifecenter.com
A non-profit agency dedicated to empowering women and children to maximize their life experience by providing education, counseling, advocacy, and tangible support. We specialize
in reaching women and their families who are survivors of abuse, trafficking, desertion, homelessness, addiction, and illiteracy. We also provide court-ordered guardianship for individuals challenged with mental illness. Serves Wayne, Oakland, and Macomb counties.

**(8) SASHA (Sexual Assault Services for Holistic Healing and Awareness)**
Phone: 888-865-7055
Website: www.SashaCenter.org
Offers information and workshops aimed at preventing sexual assault and domestic violence,
to residents throughout S.E. Michigan with an emphasis on people of color.

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

## EXHIBIT 19-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

**EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault, or stalking. Using this form doesnot necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

**1. Name of victim requesting an emergency transfer:** _____

**2. Your name (if different from victim's)** _____

**3. Name(s) of other family member(s) listed on the lease:** _____

_____

**4. Name(s) of other family member(s) who would transfer with the victim:** _____

_____

**5. Address of location from which the victim seeks to transfer:** _____

**6. Address or phone number for contacting the victim:** _____

**7. Name of the accused perpetrator (if known and can be safely disclosed):** _____

**8. Relationship of the accused perpetrator to the victim:** _____

**9. Date(s), Time(s) and location(s) of incident(s):** _____

_____

**10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11.** _____

**11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

_____

_____

**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:** _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature_____ Signed on (Date) _____

## MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS

### Detroit Housing Commission

### NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS

### UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault, and stalking.

**Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **Detroit Housing Commission** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

**Denial of Tenancy**

*Protections for applicants***:** Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

**Eviction**

*Protections for HCV participants***:** Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to "actual and imminent threat" should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

**Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

2) Signed by the applicant or tenant; and

3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a Federal, State, tribal, territorial, or local law enforcement agency, court,or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

a. Deny admission by the applicant or tenant to the housing or program.

b. Deny assistance under the covered housing program to the applicant or tenant.

c. Terminate the participation of the tenant in the covered housing program; or

d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

**Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

**Lease Bifurcation**

Owners may choose to bifurcate a lease or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual.

(See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be affected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

**Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation, or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk.
- The nature and severity of the potential harm.
- The likelihood that the potential harm will occur; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

**Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating

violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)
Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).
The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

a. Requested or consented to in writing by the individual (victim) in a time-limited release.

b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

**Service Providers**

**[insert name of housing provider]** has extensive relationships with local service providers. **[insert name of housing provider]** staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in **[insert name of housing provider]** Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

**Definitions**

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

(1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or

(2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means violence committed by a person:

(1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and?

(2) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term “spouse or intimate partner of the victim” includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person’s individual safety or the safety of others; or

(2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

**Detroit Housing Commission** VAWA Notice of Occupancy Rights

# Chapter 20

# PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

## INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

# PART I: GENERAL REQUIREMENTS

## 20-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and

effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.

- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

## 20-I.B. APPLICABLE REGULATIONS

On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2012-32, REV-2 (issued June 15, 2015) and Notice PIH 2012-32, REV-3 (issued January 12, 2017).

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), and the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), and Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2015) collectively, the "RAD Statute." Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. Notice PIH 2012-32, REV-3 is applicable to projects converting assistance through RAD, including those

where a CHAP has already been issued, upon the expiration of the 30-day comment period after publication of the notice. Notice PIH 2012-32, REV-3 was published January 12, 2017.

- Notice PIH 2012-32, REV-2, RAD – Final Implementation, REV-2 is applicable to projects converting assistance through RAD upon the expiration of the 30-day comment period after publication of the Notice. PIH Notice 2012-32, REV-2 was published June 15, 2015.

**NOTE: The policies in this chapter follow Notice PIH 2012-32, REV-3. If your project falls under REV-2, applicable policies may be found in the applicable sections of the Instruction Guide for Chapter 18.**

- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

**NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.**

- RAD FAQs (http://www.radresource.net/search.cfm)

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them, and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them. MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

### 20-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

PHA Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA policies for the tenant-based voucher

program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

## 20-I.D. RELOCATION REQUIREMENTS [Notice PIH 2016-17]

In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished, and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.

In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed.
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development.

- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.

Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

### 20-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; Notice PIH 2012-32, REV-3]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated.

## PART II: PBV PROJECT SELECTION

## 20-II.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

## 20-II.B. OWNERSHIP AND CONTROL [Notice PIH 2012-32, REV-3]

Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. The requirement for a public or non-profit entity is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.

If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:

- The PHA, or an affiliate under its sole control, is the general partner or managing member.
- The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease.
- The PHA retains control over leasing the property and determining program eligibility.
- The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project.
- Other means that HUD finds acceptable

## 20-II.C. PHA-OWNED UNITS [24 CFR 983.59; Notice PIH 2012-32, REV-3. FR Notice 1/18/17]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

**20-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2012-32, REV-3]**

In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:

- Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA close-out reserve). Any funds not needed for public housing close-out costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.

In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

**20-II.E. PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3]**

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6. There is no cap on the number of units that may receive PBV assistance in a project.

### 20-II.F. SITE SELECTION STANDARDS [Notice PIH 2012-32, REV-3; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

### 20-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2012-32, REV-3]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted as part of the financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2012-32, REV-3.

## PART III: DWELLING UNITS

### 20-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### 20-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

**Lead-based Paint [24 CFR 983.101(c)]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

### 20-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part

8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.
Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

**20-III.D. INSPECTING UNITS**

**Initial Inspection [Notice PIH 2012-32, REV-3]**

Under RAD, all units must meet HQS no later than the date of completion of the work as indicated in the RCC.

**Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

**Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

PHA Policy

The PHA will inspect on an annual basis a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS, and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.
The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.
In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

**Inspecting PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

## PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

### 20-IV.A. OVERVIEW

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

### 20-IV.B. HAP CONTRACT REQUIREMENTS

**Contract Information [PBV Quick Reference Guide (10/14)]**

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The RAD rider must be attached to the PBV HAP contract and effectuates the conversion of public housing to PBV under RAD PBV. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

**Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]**

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

**Term of HAP Contract [Notice PIH 2012-32, REV-3]**

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which established a maximum term of 15 years, as well as 24 CFR 983.205(a), which governs the contract term.

**Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2012-32, REV-3]**

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

**Mandatory Contract Renewal [Notice PIH 2012-32, REV-3]**
By statue, upon contact expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract for term of up to 15 years, will not apply.
In the event that the HAP contract is removed due to breach, non-compliance, or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

- **Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

PHA Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

**20-IV.C. AMENDMENTS TO THE HAP CONTRACT**
**Floating Units [Notice PIH 2012-32, REV-3]**
In certain mixed-finance projects, the PHA may ask HUD permission to have assistance float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.
If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units, including any excepted units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

PHA Policy

The PHA will not float assistance among unoccupied units within the project.

**Reduction in HAP Contract Units [Notice PIH 2012-32, REV-3]**
Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.
The PHA may not reduce the number of assisted units without HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where "floating" units have been permitted.

**20-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]**

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term. The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

**20-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract, he or she certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS.
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases.
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence.
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit.
- The amount of the HAP the owner is receiving is correct under the HAP contract.
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units.
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit.
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

### 20-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

PHA Policy

The PHA will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

### 20-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### 20-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2012-32, REV-3]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2012-32, REV-3 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

### 20-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

PHA Policy

The PHA will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

## 20-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2012-32, REV-3]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies.

PHA Policy.

The PHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. The PHA currently has waiting lists for the following RAD PBV projects:

**[Insert list of projects/buildings receiving PBV assistance for which separate waiting lists are maintained].**

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The PHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The PHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair

housing laws and regulations and may not conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.
The PHA will assess any changes in racial, ethnic, or disability-related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, the PHA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.

## 20-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.

**Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2012-32, REV-3]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements.

**Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

**Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2012-32, REV-3]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program, or for occupancy of particular PBV developments or units.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible persons with disabilities who may benefit from services provided in the project. In these projects, residents with disabilities may not be required to accept the particular services offered as a condition of occupancy.

PHA Policy

The PHA will not offer any preferences for the RAD PBV program or for particular PBV projects or units.

## 20-V.F. OFFER OF PBV ASSISTANCE

**Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies

- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

**Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

**Acceptance of Offer [24 CFR 983.252]**

***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

***Persons with Disabilities***

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## 20-V.G. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(a)(2) and (a)(3)].

### Leasing [24 CFR 983.253(a)]

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

PHA Policy

The owner must notify the PHA in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

The PHA will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

## 20-V.H. TENANT SCREENING [24 CFR 983.255]

### PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

PHA Policy

The PHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information,

at the time of the turnover HQS inspection or before. The PHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

**Owner Responsibility**

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- 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
- Compliance with other essential conditions of tenancy

## PART VI: OCCUPANCY

### 20-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### 20-VI.B. LEASE [24 CFR 983.256; Notice PIH 2012-32, REV-3]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

**Lease Requirements [24 CFR 983.256(c); Notice PIH 2012-32, REV-3]**

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant.
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit).
- The term of the lease (initial term and any provision for renewal).
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements.
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD. An example of language that may be included can be found in Attachment-1E of Notice PIH 2012-32, REV-2.

**Tenancy Addendum [24 CFR 983.256(d)]**
The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

**Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)]**
Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.
The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

**Changes in the Lease [24 CFR 983.256(e)]**
If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.
The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

**Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3]**
With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.
Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as the PHA's administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which may not be less than:

- A reasonable period of time, but not to exceed 30 days:
  - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction
- 14 days in the case of nonpayment of rent
- 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner. See Chapter 16 Part III: Informal Reviews and Hearings for more information.

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***
The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

**Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2012-32, REV-3]**
Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family's TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under

RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract.

Following conversion, 24 CFR 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

PHA Policy

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

**Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)]**

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise, thesecurity deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

PHA Policy

The PHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

**20-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2012-32, REV-3]**

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted

previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA), to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program. Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV, and PBRA participants in its FSS program.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

**20-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2012-32, REV-3]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

**20-VI.E. MOVES**

**Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3]**

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

PHA Policy

The PHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 10 business days of

the PHA's determination. The PHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

PBV assistance in the same building or project
PBV assistance in another project
Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

PHA Policy

When the PHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

**Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA.

**Choice Mobility [Notice PIH 2012-32, REV-3]**

If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

PHA Policy:

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.
The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.
The PHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

**Turnover Cap**

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

PHA Policy

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD. Therefore, the PHA will establish a choice mobility cap. The PHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.
Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

**Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).
HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

PHA Policy

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the PHA's public housing program. Such a decision will be made by the PHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the PHA's public housing program. The PHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

**20-VI.F. REEXAMINATIONS [PBV Quick Reference Guide (10/14)]**

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

**20-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2012-32, REV-3]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only apply to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving theEID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

**20-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2012-32, REV-3]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV require that PHAs provide adequate written notice of termination of the lease, which is no less than:

- A reasonable period, but not to exceed 30 days:
  - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
  - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

**20-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2012-32, REV-3]**

Unlike in the standard PBV program, residents in converted projects have the right to request an informal hearing for issues that adversely affect the resident's rights, obligations, welfare, or status with both the PHA and the project owner.

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(vi), the contract administrator will perform the hearing, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing

requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.
The PHA (as owner) must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(vi). (See Chapter 16)
The PHA (as owner) must provide an opportunity for an informal hearing before an eviction.

## PART VII: DETERMINING CONTRACT RENT

### 20-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2012-32, REV-3]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2012-32, REV-2. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located. PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.
Notwithstanding the current funding level, the initial rents are set at the lower of:

- 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement
- Reasonable rent in comparison to the unassisted housing market
- An amount determined by current funding
    - Adjusted through rent bundling or reconfiguration of units

### 20-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2012-32, REV-3. PBV Quick Reference Guide (10/14)]

Contract rents will be adjusted annually by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.
However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.
At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

**Rent Decrease**

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### 20-VII.C. UTILITY ALLOWANCES [Notice PIH 2012-32, REV-3. PBV Quick Reference Guide (10/14)]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract. A PHA may request a waiver from HUD in order to establish a site-specific utility allowance schedule.
After conversion, unless a waiver is requested and approved by HUD, the PHA must maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR

982.517 respectively. These utility allowances are effective for in-place families at recertification.

PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD developments.

### 20-VII.D. REASONABLE RENT [24 CFR 983.303]

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

**How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

**PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

## PART VIII: PAYMENTS TO OWNER

### 20-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

## 20-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

PHA Policy

If the PHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the PHA will notify the landlord of the amount of housing assistance payment that the owner must repay. The PHA will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge).
- The owner certifies that the vacancy is not the fault of the owner, and that the unitwas vacant during the period for which payment is claimed.
- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

PHA Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the PHA of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the PHA within 10 business days of the PHA's request, no vacancy payments will be made.

## 20-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

**Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

**Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

The PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

PHA Policy

The PHA will make utility reimbursements directly to the family.

**20-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2012-32, REV-3]**

For in-place tenants, if a tenant's monthly rent increases by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

PHA Policy

The PHA will implement a three-year phase-in for in-place families whose rent increases by more than the greater of 10 percent or $25 as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

## 20-VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]

### Meals and Supportive Services

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### Other Charges by Owner

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

# DHC ACOP

# FY 2023-2024 Admissions and Continued Occupancy Policy Draft

# Proposed Changes 02/2023

**All proposed updates are noted in blue.**

## PART III: DENIAL OF ADMISSION

### 3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

**Federally Barred Admission**

HUD requires DHC to deny assistance in the following cases:

(1) Any member of the household has been evicted from federally assisted housing in the last 3 years for drug-related criminal activity. HUD permits, but does not require, DHC to admit an otherwise-eligible family if, the household member has completed a DHC-approved drug rehabilitation program for the circumstances which led to eviction no longer exist (e.g., the person involved in the criminal activity no longer lives in the household).

(2) If DHC determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

*(a) "Currently engaged in the illegal use of a drug"* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

(b) ~~"Currently engaged in"~~ "recently enough", is defined as, any use of illegal drugs during the previous twelve six (6 ~~12~~) months.

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

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

**Drug and Alcohol Abuse**

In an effort to prevent drug-related criminal activity, as well as other patterns of behavior that pose a threat to the health, safety, or the right to peaceful enjoyment of the premises by other residents, DHC will endeavor to screen applicants as fairly as possible.

DHC will not deny admission, if the household member who is currently engaging in the

abuse of alcohol, is enrolled in a supervised rehabilitation program.
In determining reasonable cause or reasonable belief, DHC will consider all credible evidence including, but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. DHC will also consider evidence from treatment providers or community-based organizations providing services to household members, self- admission, admission during testimony, or admissions on a police report. A record of arrest alone will not be used to determine reasonable cause or reasonable belief, unless DHC has sufficient evidence other than the fact of arrest that the individual engaged in the conduct within the past six (6) months

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION
Criminal Activity [24 CFR 960.203 (c)]

DHC may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts that would adversely affect the health, safety, or welfare of other tenants.
If any household member has engaged in or, attempted any of the following criminal activities, during the designated review period, the family will be denied admission based on DHC's Chart of Offenses Criminal Background Screening Criteria.
The Criminal Background Screening Criteria Grid generally applies to convictions. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. If an expunged conviction appears on a criminal background report, it will not be considered in the screening process. Attempts and conspiracies to commit a crime will be treated the same way as the primary crime. For example, an applicant with a conviction for attempted murder will be screened the same way as a person with a conviction for murder.

Except as mandated by federal law, no applicant will be automatically denied because of his or her criminal background.
(a) For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community. DHC has identified particular criminal convictions that may suggest future risk (see below) and thus warrant closer examination of an individual's application. For any applicant

with criminal history that falls into one of the below categories and time periods, DHC will individually determine whether or not the particular applicant poses a significant level of risk to the safety and well-being of the community and will only deny an applicant after making such a determination. This determination will be based on the totality of the circumstances, as explained by the written criteria provided within DHC's admission policy and guidelines. Before making a decision to admit or deny applicants with relevant criminal convictions, the applicant shall be given an opportunity for an in-person individualized review based on accurate information, including notice and opportunity to be heard**.** Additionally, individual circumstances, acceptable evident of rehabilitation activities and the potential impact on safety of other residents should be taken into account in the decision as in DHC's admission policy and grievance procedures for applicants pending admission to the program.

(b) DHC will consider acceptable evidence of rehabilitation activities such as steady employment, steady-school attendance and passing grades, completion of a restorative justice program, completion of anger management, letters of support from community groups, or participation in or proof of completion of educational or vocational programs.

(c) Should the applicant forgo the opportunity to present additional information during further review, DHC will make its admission decision absent any additional information.

Applicants with criminal convictions that do not fall into one of the below categories and time periods will be deemed admissible, assuming he or she is otherwise eligible for housing assistance.

## 3-III.C. CHART OF OFFENSES – DENIAL OF ADMISSION (proposed chart)

| # | TYPE | CRIME CATEGORY | SUB CATERGORY | TIME PERIOD FOR REVIEW |
|---|---|---|---|---|
| 1 | Mandatory HUD Denial | Lifetime sex offender registration<br><br>Production or manufacture of methamphetamine **onthe premises of federally assisted housing** | Felony<br>Misdemeanor | Review for confirmation of accuracy |
| 2 | Crimes Against Persons | Criminal forcible sexual conduct (child molestation, child sexual abuse, child pornography);Terrorism; Homicide, murder, manslaughter;Use of a firearm against a person;Armed robbery offenses; Kidnapping/Abduction/Human Trafficking; | Felony | 5 years from date of conviction |
| 3 | | Assault and battery; non-forcible sex offenses; Stalking; Domestic violence | Felony,<br>Misdemeanor | Review if **felony within 5 years from date of conviction** and **misdemeanor within 3 years from date of conviction** |
| 4 | Crimes Against Society | Possession or sale of illegal firearms | Felony,<br>Misdemeanor | Review |
| 5 | | Burglary Breaking and Entering Robbery Offenses | Felony,<br>Misdemeanor | Review if **felony within 5 years from date of conviction** and **misdemeanor within 3 years from date of conviction** |
| 6 | | Any household member has ever been convicted ofdrug-related criminal activity. Possession with intent to manufacture, sell, distribute, or use the drug. Criminal activity that shows a pattern or history ofabuse of alcohol, illegal or prescription drugs and narcotics | Felony<br>Misdemeanor | Review if use us within six (6) months otherwise, Review if **felony within 5 years from date of conviction** and **misdemeanor within 3 years from date of conviction** |
| 7 | Crimes Against Property | Theft; Stolen Property; Fraud Related offenses Destruction of Property Vandalism Arson | Felony | Review if felony within 5 years from date of conviction |
| 8 | Multiple Offenses | 2,3,4,5,6,7 | If two of more convictions | Review if two or more convictions are within previous 10 years |

| OFFENSE | Felony Conviction (Years after Conviction) | Other Conviction (Years prior to Admissions) |
|---|---|---|
| **Crimes Against Persons** | | |
| **Assault-Related Offenses**<br>General Definition: An unlawful attack by one person upon another. | 10 | 3 |
| **Family-Related Offenses, Nonviolent**<br>General Definition: Unlawful, non-violent acts by a family member (or legal guardian) that threatens the physical, mental, or economic well-being morals of another family member that are not classifiable as other offenses, such as Assault, Incest and Statutory Rape etc. | 5 | 3 |
| **Homicide-Related Offenses**<br>General Definition: The killing of one human being by another.<br>• 1st Degree Murder<br>• Vehicular Homicide or 2nd, or 3rd degree manslaughter | 20 | |
| **Kidnapping/Abduction-Related Offenses**<br>General Definition: The unlawful seizure, transportation, and/or detention of a person against his/her will or of a minor without the consent of his/her custodial parent(s) or legal guardian. | 10 | 3 |
| **Sex-Related Offenses, Forcible***<br>General Definition: Any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will in instances where the victim is incapable of giving consent. (See below for sex offender registration requirements.) | 10 | 3 |
| **Sex-Related Offenses, Non-forcible***<br>General Definition: Unlawful, non-forcible sexual intercourse, excluding prostitution offenses. | 5 | 3 |
| **All Other Person-Related Offenses**<br>General Definition: Any offense committed against another person which causes harm to a person which does not meet specific categories previously outlined as person-related offenses. | 5 | 3 |
| **Crimes Against Property** | | |
| **Arson-Related Offenses**<br>General Definition: To unlawfully and intentionally damage or attempt to damage any real or personal property by fire or | 10 | 3 |
| **Burglary/Breaking and Entering-Related Offenses**<br>General Definition: The unlawful entry into a building or other structure with the intent to commit a felony or a theft. | 5 | 3 |
| **Motor Vehicle Theft-Related Offenses**<br>General Definition: The theft of a motor vehicle | 3 | |
| **Counterfeiting/Forgery-Related Offenses**<br>General Definition: The altering, copying, or imitation of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud. | 5 | 3 |

| OFFENSE | Felony Conviction (Years from conviction) | Other Conviction (Years prior to Admission) |
|---|---|---|
| **Driving Under The Influence-Related Offenses** General Definition: Driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic. | 3 | 3 |
| **Liquor Law-Related Offenses** General Definition: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, excluding DUI and drunkenness | 3 | 3 |
| **Manufacturing Methamphetamine in Federally Assisted Housing*** General definition: Conviction for drug-related criminal activity for the production or manufacture of methamphetamine on the premises of Federally assisted housing. | Lifetime ban | Lifetime ban |
| **Pornography/Obscene Material-Related Offenses** General Definition: The violation of laws or ordinances prohibiting the manufacture, publishing, sale, purchase, or possession of sexually explicit material, e.g., literature or photographs. | 5 | 3 |
| **Prostitution-Related Offenses** General Definition: To unlawfully engage in or promote sexual activities for profit. | 3 | 3 |
| **Sex Offender Registrant*** General Definition: Identification of a registration by the applicant as a registered sex offender in one or more jurisdictions covered by the search. (Note that requirements for registration vary by locale and may require the individual to actively register themselves by law in some states. Some states prohibit discrimination on the basis of registration as a sex offender.). | Lifetime ban | Lifetime ban |
| **Trespass of Real Property-Related Offenses** General Definition: To unlawfully enter land, a dwelling, or other real property. | 3 | **3** |
| **Weapons Law-Related Offenses** General Definition: The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. | 10 | 3 |
| **Drug/Narcotic-Related Offenses: Manufacture or Distribution Indicated** General Definition: The violation of laws prohibiting the production, distribution, or trafficking of certain controlled substances and the equipment or devices utilized in their preparation and/or use. Offenses contained in this category specifically indicate manufacture or distribution. | 10 | 3 |

| OFFENSE | Felony Conviction (Years after conviction) | Other Conviction (Years prior to admission) |
|---|---|---|
| **Embezzlement/Bribery-Related Offenses**<br>General Definition: The unlawful misappropriation by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control. | 5 | 3 |
| **Extortion/Blackmail-Related Offenses**<br>General Definition: To unlawfully obtain money, property, or any other thing of value, either tangible or intangible, through the use or threat of force, misuse of authority, threat of criminal prosecution, threat of destruction of reputation or social standing or through other coercive | 10 | 3 |
| **Fraud-Related Offenses**<br>General Definition: The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right, excluding Counterfeiting/Forgery and Bad Check offenses. | 5 | 3 |
| **Robbery-Related Offenses**<br>General Definition: The taking or attempting to take anything of value under confrontational circumstances from the control, custody, or care of another person by force or threat of force or violence and/or by putting the victim in fear of immediate harm. | 10 | 3 |
| **Stolen Property-Related Offenses**<br>General Definition: Receiving, buying, selling, possessing, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by Burglary, Embezzlement, Fraud, | 5 | 3 |
| **Larceny/Theft-Related Offenses**<br>General Definition: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another person. | 5 | 3 |
| **Destruction / Damage / Vandalism of Property Offenses**<br>General Definition: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having the custody or control of | 5 | 3 |
| **All Other Property-Related Offenses**<br>General Definition: Any offenses that cause property or monetary damage to another that do not fit into specific categories previously outlined as property-related offenses. | 5 | 3 |
| **Crimes Against Society** | | |
| **Purposely Obstructs, Impairs or Perverts the Law**<br>General Definition: A person who purposely obstructs, impairs, or perverts the administration of law or discharge of government duties or the carrying out of other governmental functions. | 5 | 3 |
| **Disorderly Conduct-Related Offenses**<br>General Definition: Any behavior that tends to disturb the public peace or decorum, scandalize the community, or shock the public | | 3 |
| **Drug/Narcotic-Related Offenses (Excluding Methamphetamines)**<br>General Definition: The violation of laws prohibiting the product, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use, | 10 | 3 |
| **Drunkenness-Related Offenses**<br>General Definition: To drink alcoholic beverages to the extent that one's mental faculties and physical coordination are substantially impaired, excluding DUI offenses. | 3 | 3 |

## CHAPTER 4: APPLICATIONS, WAITING LIST AND RESIDENT SELECTION

### 4-I.B. APPLYING FOR ASSISTANCE

### FAMILIES WITH PREFERNCES APPLYING FOR ASSISTANCE ONCE GENERAL SITE-BASED WAITLISTS AND DIGITAL APPLICATION PORTAL HAS CLOSED

Any family that wishes to reside in public housing must apply for admission to the program. During the period when DHC's digital application portal and site-based waitlists are closed to the general public, families who are eligible to apply for assistance, based on preferences that remain open year-round as outlined in Chapter 4-III.B, are required to follow DHC's two-step application process.

DHC's two-step application process for eligible families who certify to local and centralized preferences, outlined in Chapter 4-III.B, require families to submit a preliminary application and only the information needed to complete an initial assessment of the family's eligibility and proof of the applicant's preference, in order to determine the family's placement on a waiting list. Upon being selected from a site-based waitlist, the family will be required to provide a final application and all of the information necessary to establish family program eligibility and the amount of rent the family will pay when selected from the waiting list.

### PART II: MANAGING THE WAITING LIST 4-II.A. OVERVIEW

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

While the family is on the waiting list, the family must inform DHC, within 10 business days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing or electronically via DHC's digital portal for residents.

### 6-III.E. FLAT RENTS AND FAMILY CHOICE IN RENTS

**Flat Rents**

The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Pursuant to 24 CFR Part 960.235, residents of public housing are afforded the opportunity to choose between two methods of determining the amount of rent the family will pay. These options are flat rent or income-based rent.

HUD uses FMRs to help determine Public Housing Flat Rents, which must be set at 80% of

FMR or more (PIH Notice 2021-27). 42 USC 1437f requires HUD to post FMRs at least 30 days before they are effective and that they are effective at the start of the federal fiscal year, generally October 1, with 90 days to implement the FMR, from the effective date. DHC's Low-Income Public Housing Program uses FMRs for the Detroit-Warren-Livonia, MI HUD Metro Area Referenced below at:
https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2022_code/select_Geography.odn

There is no utility allowance or reimbursement with flat rents. When the family elects to pay the flat rent, the flat rent amount quoted to the family DHC is the amount the family pays. Changes in family income, expenses, or composition will not affect the flat rent amount because it is outside the income-based formula.

Policies related to the reexamination of families paying flat rent are contained in Chapter 9, and policies related to the establishment and reviews of flat rents are contained in Chapter 16.

**12-III.D. SECURITY DEPOSITS (Transfers)**

When a family transfers from one unit to another, DHC will transfer their security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit, unless the family is vacating a DHC LIPH unit and transferring to a mixed-financed LIPH unit. Then, the family's security deposit will be returned, less any outstanding rent and unit damages. The family will be required to pay a new security deposit at the time of admissions to the mixed-finance LIPH unit.

**12-IV.C. TRANSFER OFFER AND UNIT REASSIGNMENT POLICY**

Residents will receive one offer of a transfer or unit reassignment, at the discretion of DHC. Residents will have three (3) days to accept, sign and are return the unit reassignment or transfer offer. DHC will also accept a digital acknowledgement of the resident's acceptance.

When the transfer is required by DHC, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait two (2) years to reapply for another transfer.

**16-III.B. REPAYMENT POLICY**

**Family Debts to DHC**

A Repayment Agreement as used in this ACOP is a document entered into between DHC and a resident who owes a debt to DHC. DHC has the sole discretion of whether to accept such a Repayment Agreement. DHC may enter into a Repayment Agreement with a current resident for an amount owed of no more than $1,000 or for no more than three (3) months in arrears, whichever comes first, and upon approval of by the LIPH District Manager Compliance Manager, Operations Manager, Senior employee designated by the Department Head. DHC may enter into a Repayment Agreement with a resident who is in good standing regarding all other lease provisions and who has not entered into a more than two ( 2 ) Repayment Agreement with DHC within the last twelve (12) months. Repayment Agreements shall be for a period not to exceed twelve (12) months and must require that the full amount due, is paid within the 12-month period. A Repayment Agreement for longer than a twelve (12) month period or, a Repayment Agreement for an amount over $1,000 and up to $2,500 with no more than three (3) months in arrears, will require approval from the Department Head.

**Down Payment Requirement**

DHC offers two types of Repayment Agreements:

(a) A 12-month agreement which requires a payment of 50% of the balance, due at the time the resident signs the Repayment Agreement.
(b) A 6-month agreement which requires a payment of 25% of the balance due at the time the resident signs the Repayment Agreement.

**Length and Number of Repayment Agreements**

The maximum length of time DHC will enter into a Repayment Agreement with a family is twelve (12) months. DHC may adjust an existing Repayment Agreement by canceling it and entering into a new agreement for a resident whose total tenant payment (TTP) becomes $50.00 or less during the term of the Repayment Agreement and whose outstanding balance is $500.00 or less. DHC will not adjust a Repayment Agreement for a family that has executed two (2) Repayment Agreements within a 24month period.

# LIPH DWELLING LEASE

# DETROIT HOUSING COMMISSION

**1301 E. Jefferson · Detroit, Michigan 48207 · (313) 877- 8000**

# DWELLING LEASE

# PART I

**Development:** _____

**Account No**: _____

## I. DESCRIPTION OF THE PARTIES AND PREMISES

### A. Parties and Premises.

Part I of this Dwelling Lease Agreement ("Lease"), which is a two-part document, is hereby executed between the Detroit Housing Commission ("DHC"), with its principal place of business noted above, and _____(Head of Household),_____(Co-Head of Household/Spouse)

and all other adult members of the household as indicated below ("Resident"), whose complete address ("Premises") is as follows:

Building Number: _____ Unit Number: _____

Address: _____
Detroit, Michigan 482 _____

Lease Effective Date: _____

Terms and Conditions stated in Part II of this Lease are incorporated by reference.

### B. Resident's Household.

DHC leases the Premises for the exclusive use and occupancy by authorized members of Resident's household, as listed below, who are listed in Resident's Application for Admission or added to Resident's latest Application for Continued Occupancy, which application(s) is incorporated by reference. The following Resident and members of Resident's household, all of whom agree to comply with the terms and conditions contained in this Lease, are the only persons authorized to reside in the unit (NOTE: Live-in aides are not a party to the Lease, are not a member of the Family and will not be considered a remaining member of the Family):

| NAME | RELATIONSHIP | SEX | DATE OF BIRTH |
|---|---|---|---|
| | HEAD | | |
| | Co-HEAD/Spouse | | |
| | | | |
| | | | |
| | | | |

**NOTE: Use additional sheet if necessary to add more Family members.**

## II. TERM AND RENEWAL OF LEASE

### A. Term.

The initial term, beginning_____and ending at midnight on _____, shall be for twelve (12) months.

### B. Renewal.

After the initial 12-month term, the Lease term will be automatically renewed for 12 months unless terminated by either party in accordance with the Terms and Conditions set forth in Part II, Section VI of this Lease. Resident may not renew this Lease if Resident fails or refuses DHC's request to recertify his/her rent, as described in Part II, Section IV of this Lease, or fails to comply with the Community Service and Economic Self-Sufficiency requirements in Part III, Section VB2. The monthly rent stated in Part I, Section III. A of this Lease will remain in effect until DHC provides Resident with written notification of a change.

## III. PAYMENTS DUE UNDER THE LEASE

### A. Rent and Due Date.

Initial rent is: $_____. The amount is determined by the following procedure:

Minimum Rent ☐ Flat Rent ☐ 30% of adjusted Income ☐

**1. Rent.** Monthly rent of $_____ is due and payable in advance on the first day of each month and is considered late (delinquent) after the second (2nd) calendar day of the month.

**2. Rent Adjustments.** The above monthly rent will remain in effect unless it is adjusted by DHC for a utility allowance, as explained in Part I, Section III. A. 3.d of this Lease or adjusted in accordance with the Terms and Conditions governing Applications for Continued Occupancy as explained in Part II, Section IV. A. of this Lease. Documentation of any adjustment will be provided to Resident.

**3. Utilities and Equipment.** DHC will pay all costs associated with providing the following utilities, services, and equipment listed in this Lease:

a. Water, garbage collection and sewer service.

b. Check those to be provided by DHC:

Gas: Yes,☐ No ☐ Electricity: Yes,☐ No ☐ Heat: Yes ☐ No ☐

c. DHC will provide the following appliances:

Range/Stove: Yes ☐ No ☐ Refrigerator: Yes ☐ No ☐

d. DHC agrees to adjust the rent by the applicable utility allowance of $_____(which makes Resident's adjusted rent $_____ per month) for the following utilities where the Resident has the responsibility to make direct payments to utility companies:

☐ Electricity ☐ Gas ☐ Water ☐ Sewerage ☐ Trash Removal ☐ (Other _

Resident's failure to obtain and maintain utility services not provided by DHC is considered a material violation of Resident's obligations under the Lease.

**4. Payment Location(s).** Resident shall pay rent via check or money order by first-class mail addressed to DHC at its principal business address, 1301 E. Jefferson, Detroit, Michigan 48207, or either one of the following locations:

a. The site management office which manages the property leased by the head of household noted in this lease.
b. Such other location as may be designated, in writing, by DHC.

**5. Late Rent.** Rent is considered delinquent if not paid by the 1st calendar day of the month. A late fee of Twenty-five **($25.00)** Dollars will be added to Resident's account for failure to pay the full amount due by the 5th calendar day of the month.

**B. Charges in Addition to Rent/Other Fees.**

See Part II, Section I. B of this Lease for Terms and Conditions governing Other Charges and Fees.

**C. Security Deposit.**

Resident: ☐ Agrees to pay ☐ Has previously paid the sum of $_____, which is not to exceed the equivalent of one (1) month's total tenant payment (not adjusted rent) or $100.00, whichever is lower, as a Security Deposit.

See Part II, Section I. A. of this Lease for Terms and Conditions governing Security Deposits.

***NOTICE: Michigan Law establishes rights and obligations for parties to Leases. This***

***Lease is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this Lease, you may want to seek assistance from a lawyer or other qualified person.***

**SIGNED AND DATED BY ALL ADULT MEMBERS OF RESIDENT'S HOUSEHOLD**

I HAVE REVIEWED THIS LEASE AND UNDERSTAND AND ACKNOWLEDGE THAT THE HEAD OF HOUSEHOLD, CO-HEAD OF HOUSEHOLD, IF ANY, AND SPOUSE WHO SIGN BELOW ARE JOINTLY AND SEVERALLY RESPONSIBLE FOR THE TIMELY PAYMENT OF RENT AND COMPLIANCE WITH ALL OTHER PROVISIONS OF THE LEASE.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS LEASE THIS DAY OF_____, 20_IN DETROIT, MICHIGAN.

| | |
|---|---|
| WITNESS | Head of Household |
| WITNESS | Co-Head of Household |
| WITNESS | Spouse |
| WITNESS | Adult Resident |
| WITNESS | Adult Resident |
| WITNESS | Adult Resident |

**DETROIT HOUSING COMMISSION**

BY: _____
Printed Name

_____
DHC Representative Signature

## HEAD OF HOUSEHOLD'S CERTIFICATION

I,_____, Head of Household, and_____, Co- Head of Household, hereby certify that I(we), and other members of my(our) household, have not participated and are not participating in any criminal or drug-related criminal activity on or off DHC property or any pattern of alcohol abuse or pattern of illegal use of drugs which is interfering with the health, safety, or right of peaceful enjoyment of DHC property by other Residents or DHC employees. Nor am I(we) or any other members of my(our) household subject to lifetime state sex offender registration for the state of Michigan or any other state within the United States of America. Nor have I(we) or any other members of my(our) household committed fraud in connection with any Federal housing assistance program unless such fraud was fully disclosed to DHC before execution of the Lease or before DHC approval of my(our) occupancy of the Premises.

I(we) further certify that all information or documentation submitted to DHC before and during the Lease term is true and complete to the best of my(our) knowledge and belief. If fraudulent information is provided, I(we) understand and agree that the Lease may be terminated, and the rent may be retroactively increased.

_____
Head of Household

Date: _____

_____
Co-Head of Household

Date: _____

**********

**ATTACHMENTS:** I hereby acknowledge receipt of the following documents and attachments:

( ) Lease Agreement - Part I
( ) Lease Agreement - Part II
( ) Watch Out for Lead Paint Poisoning Notice
( ) Community Service and Self-Sufficiency Requirements
( ) Renter's Insurance Acknowledgement
( ) Smoke-Free Policy
( ) Violence Against Women Act Notice of Rights and Responsibilities

**NOTE: These attachments are subject to updating by DHC.**

**DETROIT HOUSING COMMISSION**
**1301 E. Jefferson · Detroit, Michigan 48207 · (313) 877-8000**
**DWELLING LEASE**
**PART II**

# TERMS AND CONDITIONS

Part I and Part II, Terms and Conditions of the Detroit Housing Commission's Dwelling Lease, constitute the entire Lease between the Detroit Housing Commission ("DHC") and the Resident(s) identified in Part I of the Lease.

## I. PAYMENTS DUE UNDER THE LEASE

**A. Security Deposit.** Resident shall pay a security deposit at the time of leasing. The amount of the security deposit shall be equal to one (1) month's total tenant payment (not adjusted rent) or $100.00, whichever is lower. If a security deposit has already been paid prior to execution of this lease, the amount of security deposit shall be equal to the amount indicated in Part I, Section III.C. of this lease.

**1. Use of Security Deposit.** DHC may retain the Security Deposit at the termination of the tenancy to offset any money owed to DHC by the Resident, which may include back rent, reimbursement for the cost of repairing actual damages, other than ordinary wear and tear, to the Premises, buildings, facilities, or common areas caused by Resident, members of Resident's household or guests.

**2. Bank Deposit.** DHC shall hold Resident's Security Deposit in a DHC general account at COMERICA BANK, located at 500 Woodward Avenue, Detroit, Michigan 48226. DHC will return the Security Deposit to Resident within thirty (30) days after Resident vacates the Premises, less deductions for any of the costs indicated above. Resident will be liable for payments due under the Lease that total more than the amount of the Security Deposit. The Security Deposit may not be used to pay rent or other charges while Resident occupies the unit.

**3. Forwarding Address**. If within four (4) days of moving, Resident does not give DHC written notification of a forwarding address where Resident can be reached and where Resident can receive mail, DHC does not have to send an itemized list of damages and notice of the penalties associated with the failure to provide a forwarding address.

**B. Charges in Addition to Rent/Other Fees.**

Resident will be charged for maintenance and repair, beyond normal wear and tear, for noncompliance with Resident's obligations under this Lease. Resident will be charged rates listed in the Schedule of Resident Charges ("Schedule") adopted by DHC. The Schedule may be modified by DHC after notice is given to Resident pursuant to Part II, Section VII. C of this Lease. All maintenance and repair charges will be reviewed by the Site Manager. Resident shall also be charged for all allowable court costs and attorney fees associated with DHC's enforcement of this Lease. A $25.00 charge will be assessed for checks returned for insufficient funds or checks written on a closed account.

**C. Due Date and Application of Charges.**

Charges and fees are due and payable and will automatically appear on Resident's account two (2) weeks after DHC gives written notice and advises Resident of the specific ground(s) for the charges and/or fees. The notice will advise Resident of the right to request a grievance hearing if the charges and/or fees are in dispute.

All moneys paid by Resident to DHC will be applied first to the oldest outstanding non-rental charge(s).

**D. Exemptions from Minimum Rent Charge**.

DHC has established $50.00 as minimum rent. An exemption may be granted if a Family believes the imposition of minimum rent would create a financial hardship, which may include the following:

**1.** The Family has lost eligibility for or is awaiting an eligibility determination for a Federal, state, or local assistance program, including legal aliens entitled to receive assistance under the Immigration and Nationality Act.

**2.** The Family would be evicted because it is unable to pay the minimum rent.

**3.** The Family income is decreased because of changed circumstances, including loss of employment.

**4.** A death has occurred in the Family; or

**5.** Other situations as may be determined by DHC.

If a Family requests a hardship exemption and DHC reasonably determines the hardship is temporary, an exemption will not be granted. The Family may not be evicted during the ninety (90) day period beginning the month following the Family's

request. If DHC determines the financial hardship is long-term, DHC will exempt the Family from the minimum rent so long as the hardship continues. DHC will conduct a recertification every ninety (90) days during the period the financial hardship exists.

If DHC determines a temporary qualifying hardship exists, the family must resume payment of the minimum rent and must repay DHC the amounts suspended. DHC may enter into a Repayment Agreement in accordance with DHC's Repayment Agreement policy only after all attempts have been made to collect the amount due during the 30-day period. If DHC determines that no qualifying financial hardship exists, DHC will reinstate the minimum rent and require the family to repay the amounts suspended. The family must repay the suspended amount within 30 calendar days of DHC's notice that a hardship exemption has not been granted.

## II. SERVICES AND EQUIPMENT INCLUDED IN RENT

The monthly rent set forth in Part I, Section III. A of this Lease includes maintenance services for normal wear and tear, equipment and utilities furnished by DHC. As long as the Premises are habitable and DHC makes necessary repairs or improvements within a reasonable period of time, any interruption of services or utilities, inconvenience, or discomfort from repairs or improvements to the Premises do not affect this Lease, reduce the rent, or constitute an eviction.

## III. OCCUPANCY OF UNIT

Resident and Resident's household shall have the exclusive right to occupy the Leased Premises. A resident family must notify DHC when overnight guests will be staying in the unit for more than 3 days. Resident's guests or visitors may not stay overnight for more than fourteen (14) consecutive calendar days or a total of 30 cumulative calendar days in a twelve (12) month period. A family may request an exception to this policy for valid reasons, e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days. An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return. DHC consent is required to have a foster child or live-in aide residing on the Premises in order to assure that the dwelling size is adequate and/or live-in care is appropriate. Residents shall not permit anyone who is not on the Lease to use the address of the Leased Premises. Receipt of mail at the Premises shall be indication of the existence of a boarder or a lodger. Residents permitting such usage is a material violation of the Lease.

If the sole member of a household is permanently absent from the Premises, as defined in the ACOP, the Lease will be terminated.

## IV. RECERTIFICATION OF RENT ELIGIBILITY FOR CONTINUED OCCUPANCY AND UNIT SIZE

### A. Application for Continued Occupancy

At least once each year, and at other times as described in Interim Recertification below, Resident must complete an Application for Continued Occupancy ("Recertification"). As part of the recertification process, a criminal background check and a sex offender background check is completed at least annually for the head of household, co-head of household, and all other adult members of the household. Upon completion, DHC will determine whether the Resident's rental rate should be changed, whether the unit size remains appropriate for the size and/or composition of Resident's household, and whether Resident is eligible for continued occupancy in accordance with DHC's Admissions and Continued Occupancy Policy and Federal law. Resident must provide accurate and current information concerning:

**1.** The number of people in Resident's household and information regarding their ages, gender, social security number and any other information required by DHC.

**2.** The source and amount of income received by or on behalf of everyone in Resident's household.

**3.** Any allowable deductions.

**4.** The names of individuals to be contacted by DHC, for the reason provided by the resident, including in the event of an emergency.

**5.** Assets held in any Family member's name; and

**6.** Proof, as required by Federal law and DHC's Community Service and Self-Sufficiency Policy, that every adult member of the household has contributed ninety-six (96) hours of community service per year within the community unless the adult member is exempt pursuant to DHC policy or has participated in an economic self-sufficiency program for ninety-six (96) hours per year. Residents must also give reports on compliance with the policy at least annually.

The annual Recertification will include a review of Resident's payment history, housekeeping inspection results, record of cooperation with DHC's pest control program, DHC's Smoke Free Policy, Community Service and Family Self-Sufficiency Policy compliance, and all other Lease compliant behavior.

Failure by a Resident to accurately report required information or failure to appear for a scheduled Recertification or Interim Recertification within the time

designated by DHC is a material violation of the Lease that may result in a retroactive rent increase, dating back to the time the increase would have been made, and/or eviction.

**B. Interim Recertification**.

The rental rate indicated in Part I, Section III. A of this Lease remains in effect for the period between Re-certifications for continued occupancy unless any of the following occurs in which event DHC will perform an Interim Recertification:

**1.** There is any change in household composition, whether by birth, death, marriage, dissolution of marriage or other changed circumstances.

**2.** For families receiving the Earned Income Disallowance (EID), DHC will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the 24-month eligibility period.

**3.** If the family has reported zero annual income, i.e., the income is fully excluded for the purposes of calculating rent, DHC will conduct an interim reexamination every 6 months as long as the family continues to report that it has no income.

**4.** If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months such as for seasonal or cyclic income, DHC will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

**5.** If at the time of the annual reexamination, resident-provided documents were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DHC will conduct an interim reexamination.

**6.** DHC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a resident fraud complaint, or to account for income unreported and/or underreported by the family at the annual reexamination.

**7.** Resident stops receiving public assistance funds, unless a Family's income decreases because of the failure of any Family member to comply with a condition under an assistance program that requires participation in a self-sufficiency program or a work activities requirement or because of fraud. In those cases, the amount of rent paid by the Family may not be decreased during the period of income reduction. For purposes of this exception, a reduction in benefits as a result of the expiration of a lifetime limit for a Family receiving welfare or public assistance benefits is not

considered failure to comply with conditions under the assistance program requiring participation in a self-sufficiency program or a work activities requirement.

**8.** There is a decrease in income that would lower the rent in accordance with applicable Federal rules and regulations.

**9.** Resident transfers from one DHC development to another.

**10.** The current rental rate was temporary because of the inability to accurately predict income for an annual period.

**11.** Resident switches from a flat rent to an income-based rent because of hardship. Hardship includes:

a. Decreased income due to loss or reduction in employment, death of a member of the household, or loss or reduction in income from other sources.
b. An increase in the amount the Family pays for medical costs, childcare, transportation, education, or similar items; or
c. Other situations determined by DHC.

**12.** Under specific circumstances, DHC is permitted to disregard certain income when calculating Resident's rental rate.

a. The rent of a Family, as the word "Family" is described in Section 508(d)(3) of the Quality Housing Work Responsibility Act of 1998, may not increase for twelve (12) months if the income is a result of:

    i. Employment of a Family member who was previously unemployed for one (1) or more years.
    ii. Participation of a Family member in any Family self-sufficiency or other job training program; or
    iii. Increased earned income for persons who received assistance under a state program for temporary assistance for needy families funded under part A of Title IV of the Social Security Act within the prior six (6) months.

b. After twelve (12) months, if the above income continues, the rent may be increased by no more than half (50%) of what the increase would be if this section did not apply.

c. A Family whose earned income increases due to the participation of a Family member in any Family self-

sufficiency or other job training program, where the Family member began participation prior to October 1, 1999, shall be subject to 24 CFR Sec 5.609(c)(13) as it existed in the Code of Federal Regulations prior to March 29, 2000. Under this regulation, the increased income will be disregarded for the period of training and for the first 18 months of the job procured after completion of the training if the program:

i. Is authorized by a Federal, state, or local law.
ii. Is funded by Federal, state, or local law.
iii. Is operated or administered by a public agency; and
iv. Has as its objective to assist participants in acquiring employment skills.

**13.** The household experiences a change in the source(s) of household income which results in increased household income.

Any change in income or Family composition must be reported, in writing, to DHC within fourteen (14) calendar days of the change. Failure to timely report a change is a material violation of this Lease and DHC may take legal action to terminate this Lease.

## C. Cooperation with Verification Process

Resident shall comply with DHC in verifying the information required for Recertification. Resident's failure or refusal to cooperate with DHC's verification of information may result in termination of the Lease.

If Resident receives an "income discrepancy" letter from HUD, Resident shall disclose the original of the letter to DHC within fourteen (14) calendar days of receipt. Once the letter is disclosed to DHC, the Resident will have thirty (30) calendar days to provide any information required by DHC to investigate the alleged income discrepancy. Failure to timely disclose the letter to DHC or to provide the requested follow up information may result in a termination of the Lease.

Failure of the Resident to timely provide the social security number of a Family member to DHC may result in a termination of the Lease.

If Resident fails to appear for a second recertification appointment and has not rescheduled or made prior arrangements, DHC may terminate the Lease.

## D. Transfer.

DHC shall give notice prior to requiring that Resident relocate to another unit that is decent, safe, and sanitary and is an appropriate size to permit compliance with DHC's Occupancy Standards and Admissions and Continued Occupancy Policy. Notice will be given under the following circumstances:

a. If there is a required change in the size of unit needed.

b. If DHC determines that the Premises is otherwise inappropriate for the household size or composition, e.g., a unit modified to accommodate disabled persons is currently occupied by a household without disabled persons; or

c. If DHC, in its sole discretion, determines that the Premises requires substantial repairs or is scheduled for modernization or is not in a decent, safe, and sanitary condition.

The Resident will pay for moving costs related to a transfer except when the transfer is due to inhabitability which is not caused by the Resident or is based on DHC modernization needs.

In the event that DHC determines that Resident must transfer, DHC shall notify Resident of the new unit's availability. Upon receipt of the notification, DHC shall give Resident thirty (30) days from the date of notification to transfer. If Resident fails to move as required by DHC, it is a material violation of this Lease and DHC may take legal action to terminate this Lease.

## E. Grievance Policy

Resident may request an explanation of DHC's decisions. If Resident does not agree, Resident has the right to request a hearing under the Grievance Policy in effect at the time the grievance arises.

The grievance procedure is not to be used as a forum for initiating or negotiating DHC policy changes between a group or groups of residents and DHC. The grievance procedure does not apply to disputes between residents not involving DHC.

The grievance procedure does not apply to any grievance concerning a termination of tenancy or eviction that involved:

-Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of DHC.

-Any violent or drug-related criminal activity on or off such premises; or

-Any criminal activity that resulted in felony conviction of a household member.

## V. OBLIGATIONS AND RIGHTS OF PARTIES

### A. DHC

DHC has the following obligations and rights under this Lease:

#### 1. General.

a. Repair and maintain the unit, equipment and appliances, common areas and facilities in decent, safe, and sanitary condition.
b. Comply with applicable building codes, housing codes and HUD regulations materially affecting health or safety.
c. Keep development buildings, facilities, and common areas, not otherwise assigned to Resident for maintenance and upkeep, in a clean and safe condition.
d. Maintain electrical, plumbing, sanitary, heating, ventilating and other facilities and appliances, including elevators, supplied, or required to be supplied by DHC, in good, safe working order and condition.
e. Provide and maintain appropriate receptacles and facilities, except containers for the exclusive use of the Resident's Family, for the deposit of ashes, garbage, rubbish, and other waste removed from the Resident's Premises.
f. Supply running water and reasonable amounts of hot water and heat at appropriate times of the year, according to local custom and usage, in compliance with applicable Federal regulations, state law and local ordinances.
g. Thoroughly clean the Premises, as necessary, before the transfer of Resident from one unit to another and before a new Resident moves in.
h. Offer Resident a replacement unit, if available, if the condition of Resident's Premises is hazardous to the life, health or safety of the occupants and the condition is not corrected within a reasonable time. Rent will be abated in proportion to the seriousness of the damage and loss in value of the Premises if repairs are not made within a reasonable time or standard alternative accommodations are not provided in accordance with this paragraph, except that no abatement of rent will occur if Resident rejects the standard alternate accommodation or if the damage was caused by Resident, Resident's household members or guests.
i. Give Resident reasonable notice of what certification, release, information, or documentation is required, including the date by whichit must be given to DHC.
j. Notify Resident of the specific grounds for any proposed adverse action by DHC and, if applicable, the procedure for a grievance concerning a proposed adverse action.

k. Respond to and satisfy Resident's damage claims, pursuant to DHC's Damage Claim Policy.

**2. Inspections**

a. **Initial.** DHC and Resident will inspect the Premises prior to occupancy by Resident. DHC will give Resident a written statement of the condition of the Premises and the equipment provided within the Premises. The statement will be signed by DHC, and Resident and a copy placed in Resident's file.

b. **Routine.** DHC will inspect the Premises ninety (90) days after Resident moves in to conduct an interim housekeeping inspection to ensure the Resident Family has acclimated itself to DHC's housekeeping standards. Annual housekeeping inspections will be conducted by DHC staff in accordance with HUD and DHC inspection procedures.

c. **Termination.** When Resident moves out, DHC will inspect the Premises. Resident and/or a designated representative may participate in the final inspection unless Resident vacated the Premises without notice.

**3. Right to Entry.**

a. **Reasonable Notice.** Resident agrees that, upon reasonable notification, an authorized agent, employee, or representative of DHC is permitted to enter Resident's Premises to perform routine inspections and maintenance, make improvements or repairs or show the Premises for releasing. A written notice stating the reason for the entry delivered to the Premises at least 48 hours before entry is considered reasonable advance notification.

b. **Without Notice. 1) Emergency.** DHC has the right to enter Resident's Premises at any time without advance notification if DHC reasonably believes an emergency exists. If Resident or any adult member of the household is not home at the time of entry, DHC will leave a written notice giving the date, time, and purpose of entry before leaving the Premises. **2) Work Order Repair.** Resident understands and agrees that DHC may enter the Resident's unit without prior notice to complete work orders reported by the Resident.

**4. Establish and Implement Policies**

a. **General Requirement.** DHC shall establish necessary and reasonable policies in order to provide decent, safe, and sanitary housing for its Residents. Policies may be established from time to time, including but not limited to, a Schedule of Resident Charges, an Admissions and Continued Occupancy Policy, a Grievance Policy, a One-Strike Policy, a Pet Policy, a Smoke-free Policy, a Weapons Policy, a Banning/Criminal Trespass Policy, a Resident Vehicle Policy, and other policies promulgated by DHC. All existing and future policies are incorporated into this Lease by reference and will be conspicuously posted in the development's Management Office with copies provided upon request. Violation of DHC policies may result in termination of the Lease or failure of DHC to renew a Resident's Lease. Policies may be modified at DHC's discretion. Changes in policies which affect Resident's obligations under this Lease can only be implemented after notice is given as stated in Section VII. C of this Lease.

b. **One Strike Public Housing Statement**. DHC shall implement a One Strike Policy designed to create and maintain a safe and drug-free community and keep Residents and employees free from threats to their personal and Family safety. DHC enforces "zero tolerance" for illegal drug use and criminal activity by Residents, household members and guests. Failure of a Resident, household member or guest to meet these obligations constitutes a material violation of the Lease and is grounds for eviction of the entire household. DHC will seek expeditious eviction of those persons and families involved in criminal and drug activities on the first occurrence.

### 5. Right to Remove Resident's Property

Resident agrees to remove all furniture and other personal property pursuant to the state law ("Property") from the Premises immediately upon termination of the Lease. Property left on the Premises will be deemed abandoned. DHC may enter the Premises and remove Resident's possessions, without liability, in the case of voluntary termination. A bailiff may enter the Premises and remove Resident's property in the case of judicial termination of the Lease. Resident is responsible for all costs incurred by DHC for removal of property either as a result of voluntary or judicial Lease termination.

## B. Resident, Household Members and Guests

The Resident has the following obligations and rights under this Lease:

### 1. General

Resident, household members and guests or others whom the Resident controls, must comply with DHC rules. Resident is responsible for all acts committed by household members, guests, or others whom the Resident controls and for requiring compliance with the following:

a. Not to provide housing accommodations for boarders or lodgers, i.e., those who are not members of Resident's household.
b. Not to assign the Lease, sublease or abandon the Premises.
c. To use the Premises solely as a private dwelling for the Resident and the Resident's household, as identified in this Lease, and not to permit its use for any other purpose.
d. To ask for consent of DHC before engaging in any profit-making activities on the Premises and to comply with DHC's Incidental Profit-Making Activities Policy.
e. To comply with all obligations imposed upon Resident by applicable provisions of building and housing codes.
f. To keep the Premises and other areas as may be assigned to the Resident for the Resident's exclusive use in a clean and safe condition.
g. Not to alter, repair or redecorate the interior of the Premises or install additional equipment or major appliances without the prior, written consent of DHC.
h. Not to change locks, install new locks or anti-theft devices without DHC's prior, written consent. If permission is granted to change the locks, install new locks or anti-theft devices, Resident must provide DHC with a key within ten (10) days otherwise DHC will re-key the lock and charge the Resident. Also, if DHC does not timely receive a key from the Resident and DHC must enter the Premises on an emergency basis, DHC will charge the Resident for damages or expenses incurred.
i. To dispose of all ashes, garbage, rubbish, and other waste from the Premises in a sanitary and safe manner.
j. To obtain and maintain utility service to the Premises, if utilities are not provided by DHC, and to use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities, and appurtenances including elevators.
k. To refrain from and to cause household members and guests to refrain from destroying, defacing, damaging, or removing any part of the Premises or the development.
l. To comply with DHC's Pet Policy if Resident desires to keep, maintain, harbor, or board a pet of any nature on the Premises. Resident must obtain written permission from DHC prior to having a pet and must maintain each pet

responsibly and in accordance with applicable state and local public health, animal control and anti-cruelty laws and regulations.

m. To notify DHC promptly of unsafe conditions and/or the need for repairs of the Premises, common areas or grounds.

n. To pay reasonable charges, other than for normal wear and tear, for the repair of damages to the Premises or to the development, including damages to buildings, facilities, or common areas, caused by Resident, a member of Resident's household or guest.

o. To act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations, and which will be conducive to maintaining the development in a decent, safe, and sanitary condition. A disturbance includes, without limitation, playing loud music.

p. Not to allow banned persons to visit the Premises.

q. Not to willfully fail or refuse to have a photograph taken for the purposes of the issuance of a Photo ID or to produce the Photo ID upon the request of DHC management or staff or an authorized DHC agent.

r. Not to allow litter to remain outside the Resident's Premises in violation of the outdoor Trash and Litter Policy.

s. To comply with DHC's Pest Control Policy.

t. To accept DHC's offer of a Lease revision after a thirty (30) day notice to the Resident of the offer of the revised Lease.

u. (1) To assure that no Resident, household member or guest engages in:

(i) Any criminal activity that threatens the health or safety of DHC employees or the right to peaceful enjoyment of the premises by other Residents or threatens the health, safety or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the development; or

(ii) Any drug-related criminal activity on or off the premises.

(2) To assure that no other person under the Resident's control engages in:

(i) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other Residents; or

(ii) Any drug-related criminal activity on the premises.

(3) To assure that no member of the Resident's household:

(i) Engages in an abuse of or pattern of illegal use of drugs or a pattern of alcohol abuse that affects the health, safety, or right to peaceful enjoyment of the premises by other Residents or DHC employees.

(ii) Furnishes false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers; or

(iii) 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, or that, in the case of the State of New Jersey, is a high misdemeanor, or violating a condition of probation or parole Imposed under Federal and state law.

Any violation of this subsection u. is a material violation of the Lease and shall be cause for termination of the Lease and eviction from the Premises.

v. Not to have repeated chronic late payment of rent defined as late payment four (4) times within a twelve (12) month period.

w. To comply with the non-Citizen Rule requirements.

x. To abide by necessary and reasonable rules made by DHC.

y. To pay all allowable court costs and attorney fees associated with DHC's enforcement of this Lease.

z. Not to engage in the following:

1) Littering.
2) Burning refuse.
3) Setting bulk items out early.
4) Mixing commercial refuse with domestic refuse.
5) Using unapproved storage containers; or
6) Failing to remove trash can from curbside.

aa. To pay citations issued by DHC for failure to comply with DHC policies and/or issued by local law enforcement authorities for failure to comply with local code requirements. bb. To maintain the lawn, sidewalks, and driveways in conformance with local requirements related to lawn care and snow removal at scattered site homes.

cc. To advise DHC when Resident will be absent from the unit for fourteen (14) calendar days or more.

dd. Not to fail housekeeping inspections more than three (3) times in a three (3) month period.

ee. Not to purposely disengage the smoke detectors in the unit for convenience.

ff. To comply with DHC's Smoke Free Policy, as amended.

gg. Not to cultivate, smoke, possess, or possess with the intent to distribute marijuana while on or off DHC premises while a resident of

DHC. This prohibition against the possession of marijuana also includes the use, distribution, or possession of medical marijuana. Resident understands that although the marijuana uses and possession has limited restrictions in Michigan, Resident is prohibited from its possession, distribution or use while a member of the DHC housing program according to Federal law.

Resident's obligations under this Section B.1. are material provisions of this Lease of which violation thereof, may result in lease termination.

**2. Community Service and Self-Sufficiency Requirement.** Resident understands that every adult member of Resident's household must contribute eight (8) hours per month or may be aggregated across a year. Any blocking of hours is acceptable as long as 96 hours is completed by each annual certification of:

(1) community service (not including political activities).
(2) participation in an economic self-sufficiency program; or
(3) combined community service and economic self- sufficiency activities.

The following adults are exempt from the community service and economic self-sufficiency requirement:

(1) 62 years of age or older.
(2) Blind or disabled, as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. Section 416(i)(1); Section 1382c), and who certify that, because of this disability, she or he is unable to comply with the service provisions of this section or is a primary caretaker of such individual.
(3) Engaged in work activity defined in Section 407(d) of the Social Security Act (at least 20 hours a week).
(4) Able to meet requirements under a State of Michigan program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.) or under any other Michigan welfare or welfare-to-work program; or
(5) A member of a family receiving assistance, benefits, or services under a State of Michigan program funded under part A of title IV of the Social Security Act (42 U.S.C. Section 601 et seq.), or under any other welfare program of the State[1] in which the PHA is located, including a State-administered Welfare-to-Work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

**3. Provide Notification to DHC Regarding Hazardous Defects.**

a. **Duty to Notify**

Resident shall immediately notify DHC of circumstances which create conditions that are hazardous to the life, health, or safety of

household

members. DHC is responsible for repair of the Premises within a reasonable time, provided that if the damage was caused by Resident, household members or guests, the cost of the repairs will be charged to Resident. DHC will offer alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time.

b. **Rent Abatement**

Provisions will be made for abatement of rent in proportion to the seriousness of the damage and loss in value as a dwelling if repairs are not made within a reasonable time or DHC is not able to offer alternative accommodations. An abatement must have DHC approval. Rent will not abate if Resident rejects alternative accommodations or if the damage was caused by the Resident, household members, or guests. If Resident files a grievance, Resident must continue to pay rent until the grievance is decided in favor of Resident.

1. **Provide Notification to DHC Regarding Change in Resident's Household.**
   Resident shall notify DHC, in writing, within fourteen (14) calendar days after a change in income or Family composition. Failure to timely notify DHC in writing is a material violation of this Lease and may result in termination of the Lease and eviction from the Premises.

2. **Request for Reasonable Accommodations for Disability.**
   Resident may, at any time during the term of the Lease, request a reasonable accommodation for any member of Resident's household with a disability, including a reasonable accommodation to enable Resident to perform his/her responsibilities under the Lease. Resident must provide DHC with verification of the need for a reasonable accommodation.

3. **Utilize Grievance Policy.**
   In response to DHC's notice of proposed adverse action, other than nonpayment of rent or violation of the One Strike Policy, Resident may request a hearing in accordance with DHC's Grievance Policy. All grievances will be processed and resolved pursuant to the Grievance Policy in effect at the time the grievance arises.

4. **Utilize Damage Claim Policy.**
   Resident may submit claim(s) for property losses pursuant to DHC's Damage Claim Policy. DHC, in its sole discretion after investigation, will determine whether or not the claim is valid and the amount to be paid.

5. If Resident has no remaining Family member in the household and Resident will be confined to a hospital, nursing home or rehabilitation facility for more than six (6) months, Resident must provide a prognosis from a knowledgeable professional of the Resident's ability to return to his/her unit within twelve (12) months. Failure to comply with this requirement may result in the termination of Resident's Lease.

# VI. TERMINATION OF LEASE

## A. General

### 1. Resident.

This Lease may be terminated at any time by Resident by giving thirty (30) days written notice in the manner specified below. Resident agrees to surrender possession of and leave the Premises in clean and good condition, reasonable wear and tear excepted. Resident also agrees to return the keys to DHC and to provide DHC with a forwarding address.

### 2. DHC.

DHC shall not terminate or refuse to renew the Lease other than for serious or repeated violations of material terms of the Lease, including, but not limited to Resident's, (1) failure to make payments under the Lease, (2) failure to fulfill household obligations, (3) being over the income limit for the program, (4) or other good cause, which includes but is not limited to, (a) criminal activity or drug or alcohol abuse, (b) discovery, after admission into the public housing program, of facts that make the Resident ineligible, (c) discovery of material false statements or fraud by the Resident in connection with an application for assistance or with Recertification of income, or (d) failure of a Family member to comply with community service and self-sufficiency requirements.

DHC shall immediately terminate the tenancy if it determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of Federally assisted housing.

DHC shall immediately terminate the tenancy if it determines that any member of the household is subject to a lifetime state sex offender registration.

DHC may evict a Family when it determines that a household member is illegally using a drug or determines that a pattern of illegal drug alcohol use interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

DHC shall immediately terminate the tenancy if it determines that any member of the household has cultivated, smoked, possessed, or possessed with the intent to distribute marijuana whether for medical, personal, or recreational use or use of other illegal drugs while on or off DHC premises while a resident of DHC.

Paragraph

DHC will give the following written notice of Lease termination:

a. Fourteen (14) days in the case of failure to pay rent.
b. Seven (7) days or a reasonable time up to thirty (30) days

considering the seriousness of the situation:

(i) If the health or safety of other residents, DHC employees, or persons residing in the immediate vicinity of the premises is threatened.

(ii) If any member of the household has engaged in any drug-related criminal activity or violent criminal activity); or

(iii) If any member of the household has been convicted of a felony.

c. 24 hours' notice if DHC files a police report alleging drug-related criminal activity.

d. Thirty (30) days in all other cases, except that if Michigan law allows a shorter notice period, the shorter notice period will apply.

**3. Violence Against Women Act (VAWA)**

An incident or incidents of domestic violence, dating violence, sexual assault, or stalking is not an appropriate basis for denial of program assistance to a victim who is a resident of public housing.

If DHC is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse DHC may, but is not required to, request that the individual making the claim document the abuse. DHC's request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. DHC may extend this time period at its discretion.

The individual may satisfy the DHC's request by providing any one of the following three forms of documentation in the order of preference below:

- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the domestic violence, dating violence, sexual assault, or stalking meets the requirements found in VAWA 2013. The victim must also sign the documentation.
- A federal, state, tribal, territorial, or local police report or court record.
- A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, or Stalking). The victim of domestic violence, dating violence, sexual assault, or stalking is required to provide the name of the perpetrator on the HUD-approved certification form only if the name of the perpetrator is safe to provide and is known to the victim.

DHC may not require third-party documentation (forms 1 and 2) in addition to certification (form 3), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation.

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. DHC may extend the 14- day deadline for an additional 14 days at its discretion. Information provided by the victim pursuant to the certification shall be retained in confidence and may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, DHC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

If a victim has a properly executed certification on file with DHC:

(a) an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated violation of the Lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence. However, DHC may bifurcate the Lease, without regard to whether a Family Member is signatory to the Lease, to evict, remove or terminate assistance to a lawful occupant or Resident who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual without evicting, removing, or terminating assistance to or otherwise penalizing victimized lawful Residents or occupants. If such bifurcation occurs, DHC shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program. Such eviction shall be affected in accordance with the procedures prescribed by applicable law for the termination of leases.

(b) criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking engaged in by a member of a Resident's household or any guest or other person under the Resident's control shall not be cause for termination of the tenancy or occupancy rights if the Resident or an affiliated individual of the Resident is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking. However, DHC may evict a victim of domestic

violence, dating violence, sexual assault, or stalking if it can demonstrate an actual and imminent threat to other Residents or DHC employees or service providers if the Resident's tenancy is not terminated.

(c) Nothing in this Section 3 may be construed to limit DHC's authority, when notified, to honor court orders addressing rights of access or control of the Premises, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the Family Members in cases where a Family breaks up.

(d) Nothing in this Section 3 limits DHC's authority to evict a Resident for other good cause unrelated to incident(s) of domestic violence, dating violence, sexual assault, or stalking so long as the eviction is not based on a more demanding standard than that applied to persons who are not the victim of domestic violence, dating violence, sexual assault, or stalking.

(e) Nothing in this Section 3 shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this Section for victims of domestic violence, dating violence, sexual assault, or stalking.

**4. Termination Notice(s).**

A Notice to Quit/Termination of Tenancy to Resident will state specific grounds for termination, inform Resident of the right to make such reply as Resident may wish, and inform Resident of the right to examine documents relevant to the termination or eviction. The notice will also advise Resident of the right to a Grievance Hearing, where applicable, through the DHC Grievance Policy. A notice of VAWA rights, shall be provided at the time of serving a notice to terminate for lease violation pursuant to VI.A.3 of the Lease and 24 C.F.R 2005(a)(2) iii and any subsequent HUD directives.

## B. Abandonment.

If at any time during this Lease DHC believes, in good faith and after diligent inquiry, that Resident has abandoned the Premises because, among other things, Resident has been absent from the Premises for more than thirty (30) consecutive calendar days and has failed to notify DHC of his/her extended absence from the Premises, DHC may enter the Premises and remove Resident's possessions without liability. Resident shall be responsible for all costs incurred in connection with the removal.

## C. Death of Resident.

In the event of a Resident's death, DHC shall secure the Premises and restrict access only to persons with authority from the Wayne County Probate Court giving them the legal right to enter the Premises and remove the decedent's personal property. After thirty (30) days, if the decedent's property is not removed from the Premises by a court appointed legal representative of the decedent's estate, DHC will inventory the decedent's personal property and store it at a storage facility for thirty (30) days. While the property is in storage, DHC shall continue to restrict access and prohibit removal of the property by anyone other than

persons with authority as identified above. If after the thirty (30) day storage period, all or any of the decedent's personal property remains unclaimed, DHC will declare the property abandoned and may dispose of it.

## VII. MISCELLANEOUS

### A. Cumulative Rights.

Each and every one of the rights and remedies of DHC are cumulative and the exercise of any right or remedy does not waive DHC's other rights under the Lease or the law.

Delay or failure by DHC to exercise any right or remedy under this Lease, or the partial or single exercise of a right or remedy by DHC, does not constitute a waiver by DHC of any other right or remedy granted in this Lease.

### B. Insurance.

DHC and Resident waive all rights of recovery against each other to the extent that payments for any loss or damage to the Premises, or for any loss of personal property, are made under any applicable insurance policy, whether the property is owned by DHC or Resident.

### C. Lease and Policy Modifications.

DHC may, from time to time, modify this Lease, the Supplemental ACOP Policies, and the Schedule of Resident Charges provided that, as required by Federal law, DHC provides thirty (30) days written notice to Resident, and the notice states the proposed modification, the reason(s) and is:

**1.** Delivered directly or mailed to Resident; or

**2.** Posted in at least three (3) conspicuous places within each structure or building in which the affected units are located, as well as in a conspicuous place at the development's Management Office, if any, or if none, a similar central location within the development.

Resident shall have an opportunity to present written comments, which will be taken into consideration by DHC prior to the adoption of the proposed modification. This provision does not apply to changes made as a result of the Recertification process referenced in Section IV of this Lease.

## D. Entire Agreement.

This Lease, which consists of Part I and Part II, Terms and Conditions, is the entire agreement between Resident and DHC. No other verbal or written modifications are binding on the parties to this Lease unless written and signed by Resident and DHC. If any provision is held to be invalid, unlawful, or unenforceable to any extent, the rest of the Lease and the application of the invalid, unlawful or unenforceable provision to persons or circumstances other than those for which it is held as such, will not be affected.

## E. Legal Notice(s).

### 1. DHC's Responsibility.

Any notice to Resident required under this Lease, unless otherwise specified, may be delivered in writing to Resident personally or to an adult member of Resident's household residing on the Premises or may be sent by prepaid first-class mail properly addressed to Resident at the residence address contained in this Lease.

### 2. Resident's Responsibility.

Any notice to DHC must be in writing and must either be delivered in person to the Site Manager at the development's Management Office or be sent by prepaid first-class mail properly addressed to DHC at its principal business address as stated in this Lease.

# CRIME INITIATIVE

DETROIT HOUSING COMMISSION

Date: March 2023

To: Denise Jones, Director of Resident Services

From: Ernest Collier, Eviction and Security Specialist

Subject: DHC Crime Initiatives – Accomplishments and Goals

Regarding above subject, below are the accomplishments relative to DHC crime initiatives, and goals relative to same for 2023.

**Accomplishments**

- Worked with 36th District Court to facilitate evictions of residents for cause due to criminal activity
- Through partnership with Detroit Police Department to reduce concentrations of criminal activity, conducted drug raids at public housing developments (arrests made, which led to evictions)
- Provide quality decent, safe, and sanitary housing to all of our residents
- Work with courts to reduce the timeframe from service of "One Strike" notices to eviction
- Better Security Doors
- Built relationships with Detroit Police Department (DPD), Bureau of Alcohol, Tobacco, and Firearms (ATF) for Criminal activity
- Added towing contract to all the sites
- Upgraded + added Cameras at some of the sites
- Put up gates to secure parking lots

**Goals**

- Rid developments of gangs and other illegal activity
- Daily roving security patrolling at DHC family developments
- Work with Detroit HUD Field Office to propose units to be offline for use for additional anti-drug/anti-crime initiatives
- Upgrade cameras at all the sites

Please reach out to me if you have any questions or concerns.