



## PROPOSED DRAFT - BINDER 2

# DHC FY 2024 ANNUAL PLAN CFP FY 2023 5-YEAR ACTION PLAN

- 
1. Housing Choice Voucher (HCV) Administrative Plan
  2. Admissions and Continued Occupancy Policy (ACOP)
  3. LIPH Dwelling Lease
  4. DHC Crime Initiatives



# ADMINISTRATION PLAN

## HOUSING CHOICE VOUCHER



## HOUSING CHOICE VOUCHER AND SECTION 8 PROGRAMS

### ADMINISTRATION PLAN

### PROPOSED 2024

**Presented to the DHC RAB January 30, 2024**

**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.**



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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.

### **1-1B. 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”

### **1-1C. 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**

### **1-2A. 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.

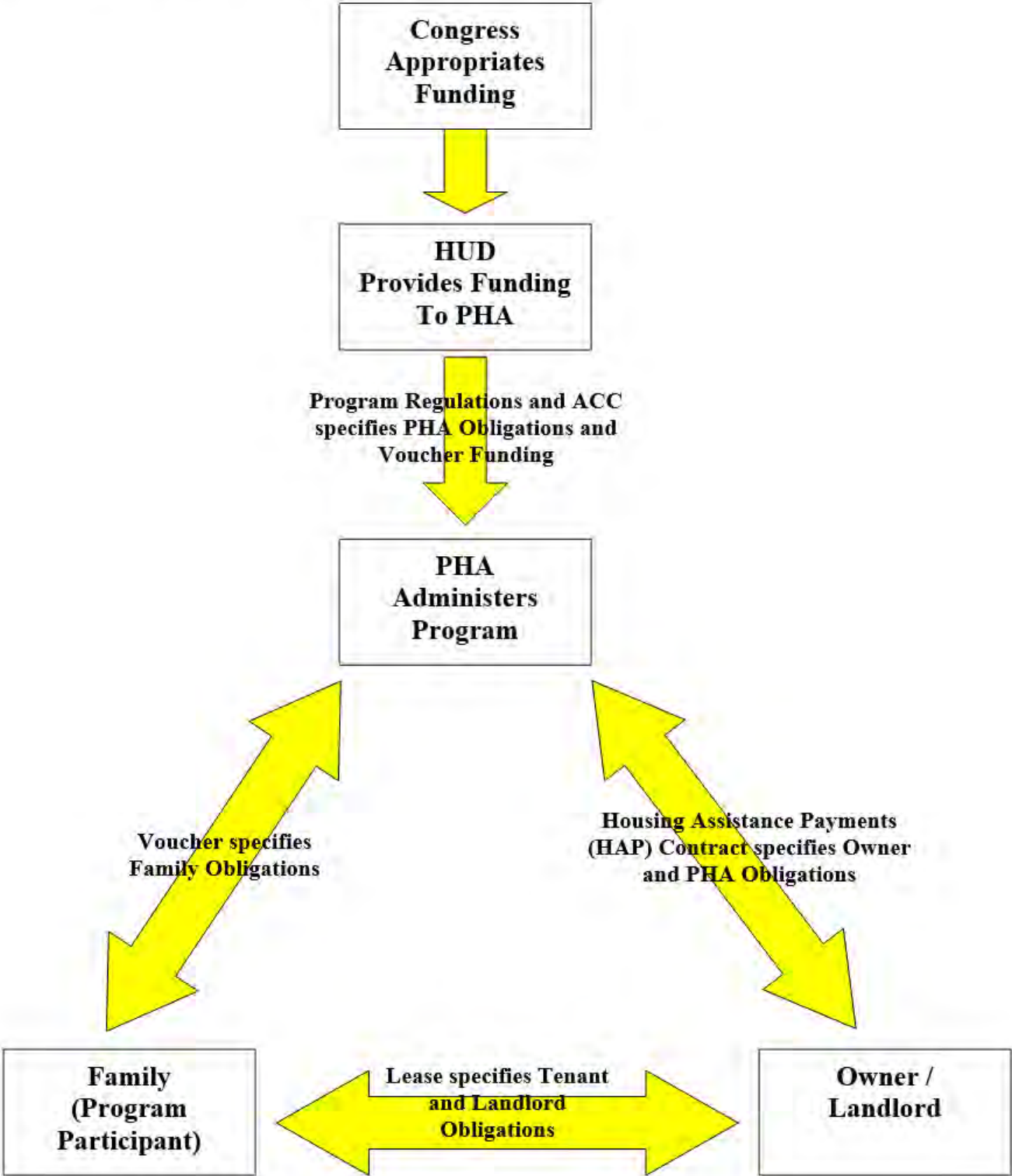
There have been changes that will impact how DHC administers its programs. On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023.

## **1-2B. 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:**



## 1. What does HUD do?

HUD has the following major responsibilities:

- Develop regulations, requirements, handbooks, notices, and other guidance to implement 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 HCV families. 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](http://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 with National Standards for the Physical Inspection of Real Estate (NSPIRE) and make 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**

### **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.

#### **1-3A. 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.
- Screening of applicants for family behavior or suitability for tenancy.
- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

### **1-3B. 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 Act (VAWA).



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

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 DISABILITIES**

### **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.”

### **2-2 A. 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 unreimbursed 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 as a 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 of availability of accessible units or special challenges of the family in seeking a unit.
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with 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.

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

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.

## **2-2 E. 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.

## **2-2 F. 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.

## **2-3 B. 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.

## **2-3 C. 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.

## **2-3 D. 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.

## **2-3 E. 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.

#### 1-4 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, stalking, or human trafficking. VAWA does not limit DHC's authority to deny assistance to an individual or family that is not otherwise qualified or eligible for assistance.

##### 2.3 F.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, stalking, or human trafficking, 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, stalking, or human trafficking.

Incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking 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 as well as the asset limitation for HCV.

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

##### 3-1 A. 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; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; 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 *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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, dating violence, sexual assault, stalking or human trafficking,.

### 3-1 B. 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

*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.

### 3-1 D. 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 AND/OR NSPIRE space standards or NSPIRE. (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.

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a *foster child* under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

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 make the 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 is 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-in 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.

Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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.

### **3-2 B. 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.

### **3-2 C. 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:
    - o A local educational agency homeless liaison
    - o 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,
    - o 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. Institution of Higher Education

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, stalking, or human trafficking . 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.

## **3. 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

#### **4. 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 way as a person with a conviction for murder

| Crimes Against Persons                                                                                                                                                                                                                                                                                                                                                                                                    |              |              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|--------------|
| <b>Assault-Related Offenses</b><br>General Definition: An unlawful attack by one person upon another.                                                                                                                                                                                                                                                                                                                     | 7            | 3            |
| <b>Family-Related Offenses, Nonviolent</b><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            |
| <b>Homicide-Related Offenses</b><br>General Definition: The killing of one human being by another.                                                                                                                                                                                                                                                                                                                        |              |              |
| <b>Kidnapping/Abduction-Related Offenses</b><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            |
| <b>Sex-Related Offenses, Forcible*</b><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.)                                                                                              | 7            | 3            |
| <b>Sex-Related Offenses, Non-forcible*</b><br>General Definition: Unlawful, non-forcible sexual intercourse, excluding prostitution offenses.                                                                                                                                                                                                                                                                             | 5            | 3            |
| <b>All Other Person-Related Offenses</b><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                                                                                                                                                                                                                                                                                                                                                                                                   |              |              |
| <b>Arson-Related Offenses</b><br>General Definition: To unlawfully and intentionally damage or attempt to damage any real or personal property by fire or incendiary device.                                                                                                                                                                                                                                              | 5            | 3            |
| <b>Manufacturing Methamphetamine in Federally Assisted Housing*</b><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 |
| <b>Sex Offender Registrant*General Definition:</b> 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 |
| <b>Weapons Law-Related Offenses</b><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            |
| <b>Drug/Narcotic-Related Offenses:</b> Manufacture or Distribution Indicated<br>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 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 premises by 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 obtaining information.
- Supply true and complete information.



- Be responsible for housing quality standard (HQS AND/OR NSPIRE) or NSPIRE 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 from receipt 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 NSPIRE OR 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

### **3-3 B. 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.

#### 5. 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.

### **3-3 C. 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 marital status. The owner is also subject to applicable state and local fair housing laws prohibiting discrimination because of sexual orientation, gender identity and/or marital 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, stalking, or human trafficking, except at the written request or

with the written consent of the individual providing the documentation.

### **3-3 D. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;  
PHA Policy  
The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.
- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and

- the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

### **3-3 E. 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.

### **3-3 F. 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.

### **3-3 G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING AND HUMAN TRAFFICKING**

The Violence Against Women Act (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).

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing

VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

### 3-3H. 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. Random Number/Lottery Placement Method for the HCV Waiting List**

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 22<sup>nd</sup> 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

### **4-2 E. 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.

### **4-2 F. 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**

### **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.

### **4-3B. 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, stalking, or human trafficking 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, stalking, or human trafficking . 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 partner agencies, 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.
  - o 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
  - o 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.

#### 4-3 C. 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 within 10 business days of the interview. Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible 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.

#### **4-3 D. 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 be returned 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**

### **5-1 A. 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 National Standards for the Physical Inspection of Real Estate (NSPIRE) or 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 days of 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 to the 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 NSPIRE or 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 's primary 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 NSPIRE OR 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<br>(Minimum Number) | Persons in Household<br>(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                                       |

### 5-2 C. 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.



## **5-2D. 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.

## **5-2 E. 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:
  - o Serious illness or death in the family
  - o Other family emergency
  - o Obstacles due to employment
  - o Whether the family has already submitted requests for tenancy approval that were not approved by DHC
  - o 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.

**I Deleted everything after this point (Chpt 6 to the end)**

## 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 the DHC's subsidy. The 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 HUD regulations and DHC policies related to these topics in three parts as follows:

**Part I: Annual Income.** HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and DHC policies for calculating annual income are found in Part I.

**Part II: Assets.** HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and DHC policies for calculating income from assets are found in Part II.

**Part III: Adjusted Income.** Once annual income has been established, HUD regulations require the DHC to subtract from annual income any of five mandatory deductions for which a family qualifies and allow the DHC to adopt additional permissive deductions. These requirements and DHC policies for calculating adjusted income are found in Part III.

**Part IV: 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 required family payment.

## **PART I: ANNUAL INCOME**

### **6-1 A OVERVIEW**

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

### **6-1.B. HOUSEHOLD COMPOSITION AND INCOME**

#### **Overview**

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 in accordance with HUD regulations and DHC policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

| <b>Summary of Income Included and Excluded by Person</b>                  |                                                                                                                                                                                                             |
|---------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Live-in aides                                                             | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].                                                                                                                        |
| Foster child or foster adult                                              | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(b)(8)].                                                                                                                        |
| Head, spouse, or cohead<br>Other adult family members                     | All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)].                                                                                                          |
| Minors                                                                    | Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].<br>All sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)]. |
| Full-time students 18 years of age or older (not head, spouse, or cohead) | Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(b)(14)].<br>All sources of unearned income, except those specifically excluded by the regulations, are included.               |

### **Temporarily Absent Family Members**

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

#### DHC Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

### **Absent Students**

#### DHC Policy

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

### **Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family

#### DHC Policy

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



continue to be counted as a family member.

### ***Absent Head, Spouse, or Cohead***

#### DHC Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

### **Family Members Permanently Confined for Medical Reasons**

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

#### DHC Policy

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

### **Joint Custody of Dependents**

#### DHC Policy

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

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

### **Caretakers for a Child**

#### DHC Policy

The approval of a caretaker is at the owner and DHC's discretion and subject to the owner and DHC's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the DHC will take the following actions.

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the

caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the DHC will extend the caretaker's status as an eligible visitor.

- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

### **6-1.C. CALCULATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

#### **Anticipating Annual Income**

At initial occupancy and for an interim reexamination of family income, the DHC is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

##### DHC Policy

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

#### **Known Changes in Income**

If the DHC verifies an upcoming increase or decrease in income, annual income will be projected 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 new admission or interim reexamination. In such a case the PHA would calculate annual income as follows:  
 $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}).$

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the DHC will calculate annual income using current circumstances and then, should the change in income require

the DHC to conduct an interim reexamination, conduct an interim reexamination in accordance with DHC policy in Chapter 11.

### **Calculating Annual Income at Annual Reexamination**

At annual reexamination, DHCs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with DHC policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

### **6-1.D. EARNED INCOME**

#### ***Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]***

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

#### **DHC Policy**

The DHC will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

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

### ***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 [

### ***Earnings of a Minor [24 CFR 5.609(b)(3)]***

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

### ***Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]***

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

## **6-1.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16; Notice PIH 2023-27]**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the DHC policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### **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 their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

### **Calculation Method**

#### ***Initial 12-Month Exclusion***

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

#### **DHC Policy**

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

#### ***Second 12-Month Exclusion***

During the second exclusion period of 12 consecutive months, the DHC must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

DHC Policy

During the second 12-month exclusion period, the DHC will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

***Lifetime Limitation***

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

**6-1.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b)(28); Notice PH 2023-27]**

Annual income includes "net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may 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."

DHC Policy

To determine business expenses that may be deducted from gross income, the DHC will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

**Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

**Business Expansion**

HUD regulations do not permit the DHC to deduct from gross income expenses for business expansion.

DHC Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

## **Capital Indebtedness**

HUD regulations do not permit the DHC to deduct from gross income the amortization of capital indebtedness.

### DHC Policy

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

## **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

## **Withdrawal of Cash or Assets from a Business**

HUD regulations require the 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.

### DHC Policy

Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of \$2,000 to help a business get started, the 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.

## **Co-owned Businesses**

### DHC Policy

If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

## **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

## 6-1.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]

### Introduction

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The DHC will follow the pre-HOTMA Section 8 student financial assistance limitation described below.
- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described for the public housing program and listed below.

### Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the DHC will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.

- *Tuition and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
  - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
  - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
  - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
  - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
  - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving Section 8 assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

#### **HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
  - The Higher Education Tribal Grant
  - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual



covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
  - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the DHC. The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government ;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

### **Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]**

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

### DHC Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the DHC will exclude the full amount of the assistance received under Title IV from the family's annual income. The DHC will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The DHC will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The DHC will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

#### **Example 1**

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the DHC will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

#### **Example 2**

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the DHC will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

### **Example 3**

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### **Example 4**

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

## **6-1.H. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

#### DHC Policy

The DHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family reports this during the period in which the DHC is processing an annual reexamination, the DHC will adjust the family's rent retroactively for the period the payment was intended to cover.

If the delayed-start payment is received outside of the time the DHC is processing an annual reexamination, then the DHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the DHC will conduct an interim in accordance with DHC policies in Chapter 11. If not, the DHC will consider the amount when processing the family's next annual recertification.

### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

### **Social Security Benefits [Notice PIH 2018-24]**

The DHC is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the

cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27]. When a family member's benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other debts, the PHA must use the gross amount of the income, prior to the reduction, to determine a family's annual income.

#### DHC Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, the DHC will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

### **Alimony and Child Support**

#### DHC Policy

The DHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The DHC will count court-awarded amounts for alimony and child support unless the family certifies and the DHC verifies that the payments are not being made.

In order to verify that payments are not being made, the DHC will review child support payments over the last three months.

If payments are being made regularly, the DHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the DHC will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the DHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the DHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the DHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the DHC will not include alimony or child support in annual income.

### **6-1.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, DHCs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

### **Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]**

The DHC must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

#### ***Covered Families***

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

#### ***Imputed Income***

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the DHC must include in annual income “imputed” welfare income. The DHC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements [24 CFR 5.615(b)(2)].

#### ***Offsets***

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

### **6-1.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

### **6-1.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the DHC or owner chooses not to conduct the examination.



### **6-1.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]**

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].

- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family's Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the DHC or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.609 I(12)(ii)].

Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, 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 unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

### DHC Policy

The 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 of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].

The 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 [expired Notice PIH 98-2, pp. 3–4].

In calculating the incremental difference, the 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 the DHC's interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian

Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABL account, and actual or imputed interest on the ABL account balance [See also Notice PIH 2019-09]

## PART II: ASSETS

### 6-2.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

#### DHC Policy

The DHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The DHC will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) the DHC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant, the 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 the DHC to show why the asset income determination does not represent the family's anticipated asset income.

## **6-2.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]**

DHCs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

### ***Minimum Threshold***

The *HCV Guidebook* permits the DHC to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### DHC Policy

The 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.

### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

#### DHC Policy

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

### ***Family Declaration***

#### DHC Policy

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The DHC may verify the value of the assets disposed of if other information available to the DHC does not appear to agree with the information reported by the family.

## **6-2.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's

assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

#### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The DHC must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

#### ***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

#### **DHC Policy**

The DHC will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the DHC will use the value of the account on the most recent investment report.

### ***Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]***

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

*Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.



| Necessary Personal Property                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Non-Necessary Personal Property                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p> | <p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p> |

#### DHC Policy

In determining the value of non-necessary personal property, the DHC will use the family's estimate of the value. The 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.

### ***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The DHC must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the DHC chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

#### **DHC Policy**

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

### ***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the DHC must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

### ***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

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).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the DHC must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The DHC must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

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. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the DHC to subtract the amount of the deposit from the value of the excluded asset).

***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];

- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## 6-2.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

### ***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

#### DHC Policy

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the DHC to make a distinction between an asset’s market value and its cash value.

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

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The DHC may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The DHC may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed \$50,000 (adjusted annually by HUD), the DHC may not rely on self-certification. If actual returns can be calculated, the DHC must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the DHC must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the DHC can compute actual income from some but not all assets, the DHC must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## PART III: ADJUSTED INCOME

### 6-3.A. INTRODUCTION

#### Overview

HUD regulations require DHCs to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the DHC to deduct other permissive deductions in accordance with DHC policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions*

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
  - (i) Unreimbursed health and medical care 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; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

#### Anticipating Expenses

##### DHC Policy

Generally, the DHC will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), the 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, the DHC will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The DHC may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the DHC will include those expenses anticipated to be incurred during the 12 months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations,

the DHC will use information for the previous 12-month period.

### **6-3.B. DEPENDENT DEDUCTION**

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or cohead who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### **6-3.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, cohead, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, cohead, or sole member is a person with disabilities [24 CFR 5.403].

### **6-3.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i) and 5.603(b)]**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This deduction is permitted only for families in which the head, spouse, or cohead is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

#### **Definition of *Medical Expenses***

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting DHCs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. DHCs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

#### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

##### DHC Policy

This policy applies only to families in which the head, spouse, or cohead is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, the DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.



### **6-3.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]**

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ten percent of annual income, and (4) do not exceed the earned income received by the family member who is enabled to work.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

#### DHC Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, the 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 the DHC determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ incomes.

#### ***Eligible Auxiliary Apparatus [Notice PIH 2023-27]***

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

#### ***Eligible Attendant Care [Notice PIH 2023-27]***

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

#### DHC Policy

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the DHC will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

#### DHC Policy

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

### **Families That Qualify for Both Health and Medical and Disability Assistance Expenses**

#### DHC Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, the DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-3.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at 24 CFR 5.603(b) as "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income."

### **Clarifying the Meaning of *Child* for This Deduction**

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, child care expenses for foster children that are living in the assisted family's household are included when determining the family's child care expenses [HCV GB, p. 5-29].

### **Qualifying for the Deduction**

#### ***Determining Who Is Enabled to Pursue an Eligible Activity***

#### DHC Policy

The family must identify the family member(s) enabled to pursue an eligible activity. The term *eligible activity* in this section means any of the activities that may make the family eligible for a child care deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the 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.

### ***Seeking Work***

#### DHC Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the child care expense being allowed by the DHC.

### ***Furthering Education***

#### DHC Policy

If the child care expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the child care claimed.

### ***Being Gainfully Employed***

#### DHC Policy

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income” [24 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

The DHC must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

#### DHC Policy

When the child care 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, the DHC generally will limit allowable child care 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.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the assisted family. The DHC may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care [VG, p. 26].

### ***Allowable Child Care Activities***

#### DHC Policy

For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care is used to enable a family member to conduct activities that are not eligible for consideration, the DHC will prorate the costs and allow only that portion of the expenses that is attributable to child care for eligible activities. For example, if the care provider also cares for a child with disabilities who is 13 or older, the cost of care will be prorated. Unless otherwise specified by the child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Necessary and Reasonable Costs***

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education, and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

#### DHC Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the DHC will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and the DHC will consider, justification for costs that exceed typical costs in the area.

## **6-3.G. HARSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]**

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined

below.

### **Phased-In Relief**

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review. The family must receive phased-in relief if they are determined to be eligible. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the DHC will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

DHCs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same DHC. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the DHC has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the DHC. When a family moves with continued assistance or ports to a new DHC, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The DHC must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

#### DHC Policy

The DHC will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in DHC policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that DHCs develop policies defining what constitutes a hardship for purposes of this exemption.

The DHC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. DHCs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### DHC Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The DHC defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with DHC policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the DHC.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The DHC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

#### DHC Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC determination, the family may request a hearing.

If the family qualifies for an exemption, the DHC will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the DHC may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. DHCs are not limited to a maximum number of 90-day extensions.

DHCs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. DHCs must develop policies requiring families to report if the circumstances that made the family eligible for the

hardship exemption are no longer applicable.

#### DHC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The DHC will require updated verification based on the family's current circumstances. Additional extension(s) may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

#### **Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]**

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the DHC's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the DHC must recalculate the family's adjusted income and continue the child care deduction.

The DHC must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The DHC must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. DHCs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### DHC Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The DHC defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The DHC will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the DHC will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The DHC must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the DHC denies the request, the notice must specifically state the reason for the denial. DHCs must provide families 30 days' notice of any increase in rent.

If the DHC approves the request, the notice must inform the family of when the hardship exemption will

begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the DHC if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### DHC Policy

The DHC will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the DHC denies the hardship exemption request, the DHC notice will also state that if the family does not agree with the DHC determination, the family may request an informal grievance hearing.

If the family qualifies for an exemption, the DHC will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The DHC may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in DHC policies. DHCs are not limited to a maximum number of 90-day extensions. DHCs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

DHCs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the DHC denies the request, the notice must specifically state the reason for the denial.

DHCs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### DHC Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The DHC will extend relief for an additional 90-days if the family demonstrates to the DHC's satisfaction that the family continues to qualify for the hardship exemption. The DHC will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the DHC may terminate the hardship exemption if the DHC determines that the family no longer qualifies for the exemption.

### **6-3.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]**

The DHC may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the DHC offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive



deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A DHC that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A DHC will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

#### DHC Policy

The DHC has opted not to use permissive deductions.

## **PART IV: CALCULATING FAMILY SHARE AND DHC SUBSIDY**

### **6-4.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (in as-paid states only)
- A minimum rent between \$0 and \$50 that is established by the DHC

The DHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-4.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### ***Welfare Rent [24 CFR 5.628]***

##### DHC Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [24 CFR 5.630]***

##### DHC Policy

The minimum rent for this locality is \$0.

#### **Family Share [24 CFR 982.305(a)(5)]**

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the DHC's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the 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. (For a discussion of the application of payment standards, see section 6-4.C.)

#### **DHC Subsidy [24 CFR 982.505(b)]**

The 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. (For a discussion of the application of payment standards, see section 6-4.C.)

#### **Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]**

When the DHC subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement.

HUD permits the DHC to pay the reimbursement to the family or directly to the utility provider.

#### DHC Policy

The DHC will make utility reimbursements to the family.

The DHC may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The DHC must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

#### DHC Policy

The DHC will issue all utility reimbursements monthly.

### **6-4.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]**

#### DHC Policy

The financial hardship rules described below do not apply in this jurisdiction because the DHC has established a minimum rent of \$0.

#### **Overview**

If the DHC establishes a minimum rent greater than zero, the DHC must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the DHC determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

#### **HUD-Defined Financial Hardship**

Financial hardship includes the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

#### DHC Policy

A hardship will be considered to exist only if the loss of eligibility has an impact on the family's ability to pay the minimum rent.

For a family waiting for a determination of eligibility, the hardship period will end as of the first of the month following: (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

- (2) The family would be evicted because it is unable to pay the minimum rent.

#### DHC Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

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

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

DHC Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

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

DHC Policy

The DHC has not established any additional hardship criteria.

## Implementation of Hardship Exemption

### ***Determination of Hardship***

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

The DHC then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

DHC Policy

The 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.

| <b>Example: Impact of Minimum Rent Exemption</b>       |                                |                                           |                                |
|--------------------------------------------------------|--------------------------------|-------------------------------------------|--------------------------------|
| Assume the PHA has established a minimum rent of \$50. |                                |                                           |                                |
| <b>Family Share – No Hardship</b>                      |                                | <b>Family Share – With Hardship</b>       |                                |
| \$0                                                    | 30% of monthly adjusted income | \$0                                       | 30% of monthly adjusted income |
| \$15                                                   | 10% of monthly gross income    | \$15                                      | 10% of monthly gross income    |
| N/A                                                    | Welfare rent                   | N/A                                       | Welfare rent                   |
| \$50                                                   | Minimum rent                   | \$50                                      | Minimum rent                   |
| Minimum rent applies.<br>TTP = \$50                    |                                | Hardship exemption granted.<br>TTP = \$15 |                                |

DHC Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The DHC will make the determination of hardship within 30 calendar days.

### ***No Financial Hardship***

If the DHC determines there is no financial hardship, the DHC will reinstate the minimum rent and require the family to repay the amounts suspended.

DHC Policy

The DHC will require the family to repay the suspended amount within 30 calendar days of the DHC's notice that a hardship exemption has not been granted.

### ***Temporary Hardship***

If the DHC determines that a qualifying financial hardship is temporary, the DHC must suspend the

minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the DHC the amounts suspended. HUD requires the DHC to offer a reasonable repayment agreement, on terms and conditions established by the DHC. The DHC also may determine that circumstances have changed and the hardship is now a long-term hardship.

#### DHC Policy

The DHC will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

### ***Long-Term Hardship***

If the DHC determines that the financial hardship is long-term, the DHC must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

#### DHC Policy

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

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## **6-4.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]**

### **Overview**

The DHC's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of the DHC's payment standards. The establishment and revision of the 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)" [24 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the DHC's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the DHC has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the DHC must use the appropriate payment standard for the exception area.

The DHC is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (1) the payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the DHC will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit [HCV GB, p. 7-8].

### **Changes in Payment Standards**

When the DHC revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

#### ***Decreases***

If a DHC changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the DHC is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the DHC does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the DHC may either reduce the payment standard to the current amount in effect on the DHC's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The DHC may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the DHC must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The DHC's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

#### **DHC Policy**

If a DHC changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the DHC will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The DHC will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

#### ***Increases***

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].

### **Changes in Family Unit Size (Voucher Size)**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member

who is a person with disabilities, the DHC is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

#### **6-4.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

##### **Overview**

A DHC-established utility allowance schedule is used in determining family share and DHC subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using DHC subsidy standards, whichever is the lowest of the two. See Chapter 5 for information on the DHC's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

##### **Reasonable Accommodation and Individual Relief**

On request from a family that includes a person with disabilities, the DHC must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the DHC may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the DHC deems appropriate. The family must request the higher allowance and provide the DHC an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

DHCs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

##### DHC Policy

The family must request the higher allowance and provide the DHC with information about the amount of additional allowance required.

The DHC will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the DHC will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or DHC may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility

allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The DHC will also provide information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

At its discretion, the DHC may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or DHC-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

### **Utility Allowance Revisions**

At reexamination, the DHC must use the current utility allowance schedule [HCV GB, p. 18-8].

#### DHC Policy

Revised utility allowances will be applied to a family’s rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

### **6-4.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The DHC must prorate the assistance provided to a mixed family. The DHC will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the DHC subsidy for a family is calculated at \$500 and two of four family members are ineligible, the DHC subsidy would be reduced to \$250.

## EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

### 24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

*(b) Annual income does not include the following:*

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and



(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

- 1) The Federal government;
- (2) A State, Tribe, or local government;
- (3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
- (4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- (5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

- (1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
- (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (
- 3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

- (1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
- (2) Expressly to assist a student with the costs of higher education; or
- (3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

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

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such

accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) 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; and

(ii) 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.

## EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

### 24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs),

employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

### 24 CFR 5.615

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

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

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

**Covered families.** Families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

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

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

**Specified welfare benefit reduction.**

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

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

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

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

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

**(c) Imputed welfare income.**

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

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

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

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

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

**(d) Review of PHA decision.**

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the

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

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

***(e) PHA relation with welfare agency.***

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

reduction.

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

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

## **CHAPTER 7**

### **VERIFICATION**

#### **INTRODUCTION**

The DHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The DHC must not pass on the cost of verification to the family.

The DHC must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary DHC policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the DHC.

#### **PART I: GENERAL VERIFICATION REQUIREMENTS**

##### **7-1.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516; 982.551; CFR 5.230; and Notice PIH 2023-27]**

#### **Consent Forms**

The family must supply any information that the 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]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

#### **Form HUD-9886 [24 CFR 5.230(b)(1), b(2), (c)(4), and (c)(5); and Notice PIH 2023-27]**

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the DHC except under the following circumstances:

- When any person 18 years or older becomes a member of the family;



- When a current member of the family turns 18; or
- As required by HUD or the DHC in administrative instructions.

The DHC has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

#### DHC Policy

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The DHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the DHC determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the DHC to revoke consent.

#### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the DHC must deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with DHC procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the DHC to access financial records from financial institutions, unless the DHC establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

#### DHC Policy

The DHC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with DHC policy.

In order for a family to revoke their consent, the family must provide written notice to the DHC.

Within 10 business days of the date the family provides written notice, the DHC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the DHC will notify their local HUD office.

### **7-1.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the DHC elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the DHC:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;

- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the DHC. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the DHC is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the DHC must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the DHC uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the DHC's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

#### DHC Policy

When available and applicable, the DHC will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. The DHC will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, the DHC will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, the DHC will ask the family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, the DHC will obtain third-party verification of all sources of income and assets (as applicable).

The DHC will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, the DHC will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

Be dated within 12 months of the dates listed above;

State the family size

Be for the entire family (i.e., the family members listed in the documentation must match

the family's composition in the assisted unit, except for household members); and

Must state the amount of the family's annual income.

The determination need not list each source of income individually. If the DHC does not receive any acceptable income determination documentation or is unable to obtain documentation, then the DHC will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, the DHC will use the most recent income determination, unless the family presents acceptable evidence that the DHC should consider an alternative verification from a different Safe Harbor source.

When the DHC uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the DHC. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the DHC receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, the DHC will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 11. In this case, the DHC will use third-party verification to verify the change.

### **7-1.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]**

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 DHC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The DHC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the DHC must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the DHC may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other

income using standard verification requirements as outlined in Notice PIH 2023-27.

#### DHC Policy

When the DHC does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then DHC will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

The DHC will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

The DHC will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, the DHC will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

The DHC will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, the DHC will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;

During the intake process and at least once every three years thereafter.

#### **7-1.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]**

When the DHC does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the DHC to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the DHC to use the most reliable form of verification that is available and to document the reasons when the DHC uses a lesser form of verification.

In order of priority, the forms of verification that the DHC will use are:

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The DHC must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

## **File Documentation**

The DHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that the DHC has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

### **7-1.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the DHC.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the DHC has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the DHC.

#### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant

employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### ***EIV Income and IVT Reports***

PHAs are required to obtain an EIV Income and IVT report for each family any time the DHC conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the DHC used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the DHC must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

### **DHC Policy**

Except for when Safe Harbor verification from another means-tested federal assistance program is used to determine the family's annual income, the DHC will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The DHC will ensure that all EIV Income Reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the DHC determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### ***New Hires Report [Notice PIH 2023-27]***

The New Hires Report identifies participant families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the DHC uses Safe

Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the DHC requires an interim for increases in earned income after an interim decrease, then the DHC must review the report quarterly after the family's interim decrease.

#### DHC Policy

In accordance with DHC policies in Chapter 11, the DHC does not process interim reexaminations for families who have increases in earned income. Except for instances in which the DHC uses Safe Harbor income determinations to determine a family's annual income, the DHC will only review the New Hires Report at annual reexamination.

### ***No Income Reported by HHS or SSA Report***

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The DHC must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

#### DHC Policy

The DHC will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The DHC will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the DHC may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the DHC determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

### ***EIV Identity Verification Report***

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

#### DHC Policy

The DHC will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The DHC will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the DHC determines that discrepancies exist as a result of DHC errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.



### ***Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]***

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The DHC is required to review the report at least quarterly.

#### **DHC Policy**

The DHC will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The DHC must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

#### **DHC Policy**

The DHC will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The DHC may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

### ***Other EIV Reports [Notice PIH 2023-27]***

The DHC is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### **Upfront Income Verification Using Non-HUD Systems**

In addition to mandatory use of the EIV system, HUD encourages PHAs to utilize other upfront verification sources.

### **7-1.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

#### **EIV + \_Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the DHC may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

#### **DHC Policy**

At annual reexamination, if the DHC is unable to use a determination of income from a means-tested federal assistance program and if there are no reported changes to an income source, the DHC will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The DHC will use an average of the last two quarters of income listed in EIV to determine income from employment. The DHC will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two quarters are available in EIV, the DHC will use written third-party verification from the source as outlined below.

The DHC will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

### **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the DHC. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The DHC is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the DHC should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the DHC uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### **DHC Policy**

In general, the DHC will use third-party verification from the source in the following circumstances:

At annual reexamination when EIV + self-certification is not used;

For all new admissions; and

For all interim reexaminations.

The DHC will not use this method if the DHC is able to use an income determination from a means-tested federal assistance program or if the DHC uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the DHC. However, for fixed-income sources, a statement dated

within the appropriate benefit year is acceptable documentation.

The DHC may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible. If the DHC determines that third-party documents provided by the family are not acceptable, the DHC will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the DHC will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the DHC will require the family to provide the two most current, consecutive pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the DHC may request additional paystubs or a payroll record.

### **7-1.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27]**

This type of verification is a form developed by the DHC and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a DHC-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The DHC may use this method when higher forms are unavailable or are rejected by the DHC or when the family is unable to provide acceptable verification. The DHC may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

#### DHC Policy

Typically, the DHC will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the DHC may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

### **7.1.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The DHC may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

#### DHC Policy

In general, the DHC will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within 10 business days, the DHC will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the DHC chooses to obtain oral third-party verification, the DHC will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

### **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

#### DHC Policy

If the family cannot provide original documents, the 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 [VG, p. 18].

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **7-1.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the DHC has not been successful in obtaining information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded
- Net family assets total \$50,000 or less and the DHC has adopted a policy to accept self certification
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The DHC has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 11)

When the DHC was required to obtain third-party verification but instead relies self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

#### DHC Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the DHC.

The 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 the DHC and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

## **Part II: Verifying FAMILY INFORMATION**

### **7-2.A. VERIFICATION OF LEGAL IDENTITY**

#### DHC Policy

The DHC will require families to furnish verification of legal identity for each household member.

| <b>Verification of Legal Identity for Adults</b>                                                                                                                                                                                                                                                       | <b>Verification of Legal Identity for Children</b>                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| Certificate of birth, naturalization papers<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>Current U.S. passport<br>Current government employer identification card with picture | Certificate of birth<br>Adoption papers<br>Custody agreement<br>Health and Human Services ID<br>Certified school records |

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at the PHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the DHC and must be signed by the family member whose information or status is being verified.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the DHC has reason to doubt the identity of a person representing themselves to be a participant.

## **7-2.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH 2023-27]**

The family must provide documentation of a valid Social Security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The DHC must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the DHC has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the DHC must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the DHC must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### DHC Policy

The DHC will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The DHC may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

### DHC Policy

The DHC will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the DHC within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The DHC must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not

have been reasonably foreseen.

#### DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the DHC will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the DHC determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

#### DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The DHC may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the DHC determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the DHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### DHC Policy

The DHC will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

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

#### DHC Policy

The DHC will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers

- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once the individual's verification status is classified as "verified," the DHC may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers.

The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

#### DHC Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the DHC will not remove and destroy copies of documentation accepted as evidence of social security numbers.

### **7-2.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

#### DHC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the DHC will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously assisted occupancy.

### **7-II.D. FAMILY RELATIONSHIPS**

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

#### DHC Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

#### **Marriage**

##### DHC Policy

Certification by the head of household is normally sufficient verification. If the DHC has reasonable doubts about a marital relationship, the DHC will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

#### **Separation or Divorce**

##### DHC Policy

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

A certified copy of a divorce decree, signed by a court officer, is required to document



that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

### **Absence of Adult Member**

#### DHC Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the DHC so requests.

### **Foster Children and Foster Adults**

#### DHC Policy

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

## **7-2.E. VERIFICATION OF STUDENT STATUS**

### **General Requirements**

#### DHC Policy

The 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 cohead.

The family reports child care expenses to enable a family member to further their education.

The family includes a student enrolled in an *institution of higher education*.

### **Restrictions on Assistance to Students Enrolled in Institutions of Higher Education**

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

#### DHC Policy

In accordance with the verification hierarchy described in section 7-1.B, the 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-II.E.

The student is married.

The student has at least one dependent child, as defined in section 3-II.E.

The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the DHC cannot verify at least one of these exemption criteria, the 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, the DHC will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from their parents (see below).

### ***Independent Student***

#### DHC Policy

The DHC will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the DHC determines that the student is a *vulnerable youth* (see section 3-II.E)

### **7-2.F. DOCUMENTATION OF DISABILITY**

The DHC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The DHC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. The 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, the DHC will not place this information in the tenant file. Under no circumstances will the 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 <http://www.hhs.gov/ocr/privacy/>.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

Inquiry into an applicant's ability to meet the requirements of ownership or tenancy

Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability

Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to

persons with disabilities or to persons with a particular type of disability

Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance

Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance

### **Family Members Receiving SSA Disability Benefits**

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

#### DHC Policy

For family members claiming disability who receive disability benefits from the SSA, the DHC will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the DHC will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the DHC will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide it to the DHC.

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.403.

#### DHC Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7-2.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and DHC verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy. [24 CFR 5.508(g)(5)]

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The DHC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### DHC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the DHC receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

#### ***DHC Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the DHC must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The DHC will follow all USCIS protocols for verification of eligible immigration status.

## **7-2.H. VERIFICATION OF PREFERENCE STATUS**

The DHC must verify any preferences claimed by an applicant that determined placement on the waiting list.

### DHC Policy

The DHC will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The DHC will verify this preference using the DHC's termination records.

The DHC also offers a preference for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as described in Section 4-III.C. To verify that applicants qualify for the preference, the DHC will follow documentation requirements outlined in Section 16-IX.D.

## **PART III: Verifying Income AND ASSETS**

Chapter 6 of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any income reported by the family must be verified. This part provides DHC policies that supplement the general verification procedures specified in Part I of this chapter.

### DHC Policy

The following policies do not apply when the DHC uses a safe harbor income determination from a means-tested federal assistance program.

## **7-3.A. EARNED INCOME**

### **Tips**

#### DHC Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

### **Wages**

#### DHC Policy

When the DHC requires third-party verification of wages, for wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

## **7-3.B. BUSINESS AND SELF EMPLOYMENT INCOME**

The DHC must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

### DHC Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

If accelerated depreciation was used on the tax return or financial statement, an

accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, The DHC will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in “gig employment” (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the DHC will provide a format for the individual to declare their income and expenses. The DHC will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual’s tax return and the corresponding IRS Form 1099 or 1099k.

The DHC will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination the DHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the DHC will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the DHC will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **7-3.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS**

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

#### **Social Security/SSI Benefits [Notice PIH 2023-27]**

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the DHC must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the DHC should [help](#) the applicant request a benefit verification letter from SSA’s website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The DHC must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the DHC must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the DHC must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The DHC must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the DHC must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI

benefits. If the family is unable to provide the document or documents, the DHC should [help](#) the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The DHC must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### **7-3.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]**

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

#### DHC Policy

The methods the DHC will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it **receives regular payments**, verification will be obtained in the following order of priority:

- Copies of the receipts and/or payment stubs for the 12 months prior to DHC request

- Third-party verification form from the state or local child support enforcement agency

- Third-party verification form from the person paying the support

- Family's self-certification of amount received

**Note:** Families are not required to undertake independent enforcement action.

### **7-3.E. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### DHC Policy

The DHC will accept self-certification from the family stating that income will not be repeated in the coming year. However, the DHC may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

## **7-3.F. ASSETS AND INCOME FROM ASSETS**

### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the DHC may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the DHC is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the DHC may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

#### DHC Policy

For families with net assets totaling \$50,000 or less, the DHC will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The DHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the DHC will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the DHC will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The DHC must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the DHC may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real



property, the DHC must obtain third-party verification.

#### DHC Policy

Both at admission and reexam, the DHC will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The DHC reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the DHC will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the DHC will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### **7-3.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The DHC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### DHC Policy

The DHC will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

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

The DHC does not already have a reasonable estimation of its value from previously collected information, or

The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-3.H. NET INCOME FROM RENTAL PROPERTY**

#### DHC Policy

The family must provide:

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

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the DHC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### 7-3.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the DHC does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### 7-3.J. RETIREMENT ACCOUNTS

#### DHC Policy

The DHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments.

### 7-3.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

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

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the DHC is **not** required to follow the verification hierarchy, For fully excluded income, the DHC is **not** required to document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the DHC **is** required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

#### DHC Policy

The DHC will accept the family's self-certification as verification of fully excluded income. The DHC may request additional documentation if necessary to document the income source.

The DHC will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

### **7-3.L. ZERO INCOME STATUS REVIEWS [Notice PIH 2023-27]**

A *zero income review* is an assessment, sometimes periodic, performed by the DHC of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

#### **DHC Policy**

The DHC will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The DHC will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the DHC will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The DHC will only conduct interims in accordance with DHC policy in Chapter 11.

### **7-3.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]**

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

#### **DHC Policy**

The DHC will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the DHC will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the DHC is unable to obtain third-party written verification of the requested information, the DHC will pursue other forms of verification following the verification hierarchy in section 7-I.B.

### **7-3.N. parental income of students subject to eligibility restrictions**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a *vulnerable youth* in accordance with DHC policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### **DHC Policy**

If the DHC is required to determine the income eligibility of a student's parents, the DHC will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The DHC will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the DHC. The required information must be submitted (postmarked) within 10 business days of the date of the PHA's request or within any extended timeframe approved by the DHC.

The DHC reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

## **PART IV: Verifying MANDATORY DEDUCTIONS**

### **7-4.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/disabled family deductions require only that the DHC verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

#### **Dependent Deduction**

See Chapter 6 for a full discussion of this deduction. The DHC must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student

#### **Elderly/Disabled Family Deduction**

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 for a discussion of the deduction. The DHC must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

## 7-4.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The DHC must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The DHC may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the DHC must redact all personally identifiable information [FR Notice 2/14/23].

### Amount of Expense

#### DHC Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, the DHC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The DHC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

Written third-party verification forms if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the DHC will redact all personally identifiable information.

If the 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, the DHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the DHC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will DHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, the DHC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

### Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. The DHC must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as

described in Chapter 7 (7-IV.A.) of this plan.

### **Qualified Expenses**

To be eligible for the health and medical care expense deduction, the costs must qualify as medical expenses. See Chapter 6 for the DHC's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

To be eligible for the health and medical care expense deduction, the costs must not be reimbursed by another source.

#### DHC Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

### **Expenses Incurred in Past Years**

#### DHC Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, the DHC will verify:

- The anticipated repayment schedule

- The amounts paid in the past, and

- Whether the amounts to be repaid have been deducted from the family's annual income in past years

## **7-4.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The DHC must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The DHC may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the DHC must redact all personally identifiable information [FR Notice 2/14/23].

### **Amount of Expense**

#### ***Attendant Care***

#### DHC Policy

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks.

- Third-party verification form signed by the provider, if family-provided documents are not available.

- When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the DHC will redact all personally

identifiable information.

If the 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, the DHC will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the DHC will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will DHC include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

### ***Auxiliary Apparatus***

#### DHC Policy

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

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

In addition, the DHC must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F above).
- The expense permits a family member, or members, to work (as described in Chapter 6.).
- The expense is not reimbursed from another source (as described in Chapter 6.).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The DHC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

### **Family Member(s) Permitted to Work**

The DHC must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

#### DHC Policy

The DHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.



## **Unreimbursed Expenses**

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

### **DHC Policy**

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

## **7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, the DHC must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of child care.
- The costs are reasonable.

## **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. The DHC will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

## **Unreimbursed Expense**

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

### **DHC Policy**

The family (and the care provider) will be required to certify that the child care expenses are not paid or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

The DHC must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### **DHC Policy**

#### ***Information to be Gathered***

The 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.

#### ***Seeking Work***

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

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

#### *Furthering Education*

The DHC will request third-party documentation to verify that the person permitted to further their education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

#### *Gainful Employment*

The DHC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

#### DHC Policy

The DHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6.

The DHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The DHC will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

#### DHC Policy

The actual costs the family incurs will be compared with the DHC's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the DHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS  
FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]**

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

## CHAPTER 8

### HOUSING STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 SUBPART I AND 24 CFR 982.507]

#### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance meet HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than October 1, 2024. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2023-28].

All units must pass an NSPIRE inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months (or 36 months for small rural PHAs) during the term of the HAP contract, and at other times as needed, to determine that the unit meets NSPIRE standards. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

Provided they meet certain requirements, HUD permits PHAs to establish some additional local requirements in their administrative plans. The use of the term *NSPIRE* in this plan refers to the combination of both HUD and PHA-established requirements. However, state and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

This chapter explains HUD and PHA requirements related to physical inspections and rent reasonableness as follows:

**Part I. Physical Standards.** This part discusses NSPIRE standards required of units occupied by HCV and PBV-assisted families. It also identifies affirmative habitability requirements for all units and life-threatening conditions that must be corrected in 24 hours.

**Part II. The Inspection Process.** This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE standards.

**Part 3. Rent Reasonableness Determinations.** This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special NSPIRE requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction. Special requirements for the PBV and RAD PBV programs (if applicable) are discussed in Chapters 17 and 18, respectively.

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: NSPIRE STANDARDS**

NSPIRE standards are published on HUD's NSPIRE website as well as in the NSPIRE Final Rule [FR Notice 5/1//2023].

### **8-1 A. INSPECTABLE AREAS [24 CFR 5.703(a)(1) and 24 CFR 5.705(a)(2)]**

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

### **8-I.B. AFFIRMATIVE HABITABILITY REQUIREMENTS [24 CFR 5.703(b), (c), and (d)]**

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e).

The NSPIRE Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, sealed batteries *will* be required.

DHC will make efforts to encourage owners to provide housing above HQS and/or NSPIRE 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 AND/OR NSPIRE 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.

### **8-1 C. TENANT PREFERENCE ITEMS**

HUD requires DHC to enforce minimum HQS AND/OR NSPIRE 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.

### **8-1 D. MODIFICATIONS TO PROVIDE ACCESSIBILITY**

Under the Fair Housing Act of 1988 an owner must make reasonable accommodations in rules, policies, practices, or services if necessary for a person with disabilities to use the housing and must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit if such modification is necessary to afford the person with a disability full enjoyment of the premises. Such modifications are at the family's expense. The owner may, where it is reasonable to do so, require restoration of the unit to its original condition (reasonable wear and tear excepted) 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 NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR

35.151 (c) and Notice 2003-31]. See Chapter 2 of this Admin Plan for additional information on reasonable accommodations for persons with disabilities.



## 8.1 E. LIFE-THREATENING DEFICIENCIES [Notice PIH 2023-28][24 CFR 982.404(a); FR Notice 1/18/17]

HUD previously required the PHA to define life-threatening conditions in the administrative plan. The NSPIRE standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under NSPIRE:

| Inspectable Item                           | Deficiency                                                                                                                                                                                                                  |
|--------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Call-for-Aid System                        | System is blocked, or pull cord is higher than 6 inches off the floor.                                                                                                                                                      |
|                                            | System does not function properly                                                                                                                                                                                           |
| Carbon Monoxide Alarm                      | Carbon monoxide alarm is missing, not installed, or not installed in a proper location.                                                                                                                                     |
|                                            | Carbon monoxide alarm is obstructed.                                                                                                                                                                                        |
|                                            | Carbon monoxide alarm does not produce an audio or visual alarm when tested.                                                                                                                                                |
| Chimney                                    | A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior. |
|                                            | Chimney exhibits signs of structural failure.                                                                                                                                                                               |
| Clothes Dryer Exhaust Ventilation          | Electric dryer transition duct is detached or missing.                                                                                                                                                                      |
|                                            | Gas dryer transition duct is detached or missing.                                                                                                                                                                           |
|                                            | Electric dryer exhaust ventilation system has restricted airflow.                                                                                                                                                           |
|                                            | Dryer transition duct is constructed of unsuitable material.                                                                                                                                                                |
|                                            | Gas dryer exhaust ventilation system has restricted airflow.                                                                                                                                                                |
| Dorr – Entry                               | Entry door is missing.                                                                                                                                                                                                      |
| Door – Fire Labeled                        | Fire labeled door is missing.                                                                                                                                                                                               |
| Egress                                     | Obstructed means of egress.                                                                                                                                                                                                 |
|                                            | Sleeping room is located on the third floor or below and has an obstructed rescue opening.                                                                                                                                  |
|                                            | Fire escape is obstructed.                                                                                                                                                                                                  |
| Electrical – Conductor, Outlet, and Switch | Outlet or switch is damaged.                                                                                                                                                                                                |
|                                            | Exposed electrical conductor.                                                                                                                                                                                               |
|                                            | Water is currently in contact with an electrical conductor.                                                                                                                                                                 |
| Electrical – Service Panel                 | The overcurrent protection device is damaged.                                                                                                                                                                               |
| Exit Sign                                  | Exit sign is damaged, missing, obstructed, or not adequately illuminated.                                                                                                                                                   |
| Fire Escape                                | Fire extinguisher is damaged or missing.                                                                                                                                                                                    |
| Fire Extinguisher                          | Fire extinguisher pressure gauge reads over or under-charged.                                                                                                                                                               |
|                                            | Fire extinguisher service tag is missing, illegible, or expired.                                                                                                                                                            |
|                                            | Fire extinguisher is damaged or missing.                                                                                                                                                                                    |
| Flammable and Combustible Items            | Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater;<br>OR<br>Improperly stored chemicals.                                           |
| Guardrail                                  | Guardrail is missing or not installed.                                                                                                                                                                                      |
|                                            | Guardrail is not functionally adequate.                                                                                                                                                                                     |
| Heating, Ventilation,                      | The inspection date is on or between October 1                                                                                                                                                                              |

| Inspectable Item            | Deficiency                                                                                                                                                                                   |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| and Air Conditioning (HVAC) | and March 31 and the permanently installed heating source is not working or the permanently installed heating source is working and the interior temperature is below 64 degrees Fahrenheit. |
|                             | Unvented space heater that burns gas, oil, or kerosene is present.                                                                                                                           |
|                             | Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance.                                                                                              |
|                             | Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.                                                          |
| Leak – Gas or Oil           | Natural gas, propane, or oil leak.                                                                                                                                                           |
| Mold-like Substance         | Presence of mold-like substance at extremely high levels is observed visually.                                                                                                               |
| Smoke Alarm                 | Smoke alarm is not installed where required.                                                                                                                                                 |
|                             | Smoke alarm is obstructed.                                                                                                                                                                   |
|                             | Smoke alarm does not produce an audio or visual alarm when tested.                                                                                                                           |
| Sprinkler Assembly          | Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.                                                                        |
|                             | Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.                                                                                        |
|                             | Sprinkler assembly has evidence of corrosion.                                                                                                                                                |
|                             | Sprinkler assembly has evidence of foreign material that is detrimental to performance.                                                                                                      |
| Structural System           | Structural system exhibits signs of serious failure.                                                                                                                                         |
| Toilet                      | Only 1 toilet was installed, and it is missing.                                                                                                                                              |
| Water Heater                | Chimney or flue piping is blocked, misaligned, or missing.                                                                                                                                   |
|                             | Gas shutoff valve is damaged, missing, or not installed.                                                                                                                                     |

However, PHAs may add additional deficiencies which the PHA considers life-threatening provided they are described in the administrative plan

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.

## **8-1 F. LEAD-BASED PAINT**

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

### **Special Requirements for Children with Elevated Blood Lead Level**

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/OR NSPIRE 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 SPACE STANDARDS [24 CFR 5.703(d)(5)]**

If DHC determines that a unit does not meet the 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.

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a habitable room as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23]. A unit that does not meet these space standards is defined as *overcrowded*.

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.

### **8-I.H. ADDITIONAL LOCAL REQUIREMENTS [24 CFR 5.705(a)(3) and Notice PIH 2023-28]**

The PHA may impose variations to the NSPIRE standards as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to NSPIRE standards and approved variations must be added to the administrative plan.

HUD may approve inspection criteria variations if the variations apply standards in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions. Acceptability criteria variations may only be approved by HUD if such variations either meet or exceed the performance requirements or significantly expand affordable housing opportunities for families assisted under the program.

#### DHC Policy

The DHC has not requested any HUD-approved variations to NSPIRE standards.

## **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 AND/OR NSPIRE inspection before the effective date of the HAP Contract.

2. **Annual/Biennial Inspections.** HUD requires the PHA to inspect each unit under lease at least annually or biennially (or triennially for small rural PHAs as defined in 24 CFR 982.305(b)(2)), depending on PHA policy, to confirm that the unit still meets NSPIRE standards.

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 NSPIRE standards inspections are being enforced correctly and uniformly by all inspectors.

### **8-2 B. INSPECTION OF DHC-OWNED UNITS [24 CFR 982.352(B)]**

DHC must obtain the services of an independent entity to perform all HQS AND/OR NSPIRE 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.

### **1-2 C. 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); 24 CFR 5.705(d)].

#### **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 AND/OR NSPIRE 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 AND/OR NSPIRE standards. If a unit passes HQS AND/OR NSPIRE but does not proceed to contract, the HQS AND/OR NSPIRE 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 life-threatening deficiencies 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 failures that are severe or moderate 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. If low deficiencies are identified, these deficiencies will only be noted for informational purposes.

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.

The PHA will not accept self-certification of repairs. Photos or other documentation of repairs will not be accepted in lieu of a reinspection.

## **8-2 D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

### **1. Family Responsibilities**

The family is responsible for correcting the following 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.

If a family fails to correct a family-caused life-threatening condition as required by DHC, DHC will enforce the family obligations. See 8-2.H.

### Owner Responsibilities

The owner must maintain the unit in accordance with NSPIRE regulations and standards. The [owner](#) is not responsible for a breach of the [HQS AND/OR NSPIRE](#) that is not caused by the [owner](#), and for which the [family](#) is responsible (as provided in [24 CFR 982.404\(b\)](#) and [982.551\(c\)](#)).

is responsible for all HQS AND/OR NSPIRE violations that are not a family responsibility.

The owner is responsible for all NSPIRE violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family.

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 the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the NSPIRE standards in accordance with HUD requirements. See 8-2-G.

## 2. HQS AND/OR NSPIRE Inspector's Determination

The HQS AND/OR NSPIRE 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

## 3. Extensions

DHC cannot grant an extension to the 24-hour correction period for emergency/ life-threatening deficiencies. 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.

## **8-2 E. INITIAL INSPECTION [24 CFR 982.401(a)]**

### **Approving Units [FR Notice 1/18/17; Notice PIH 2017-20; and 24 CFR 982.406]**

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet NSPIRE standards before the PHA approves assisted tenancy. However, while the PHA is required to conduct an inspection prior to approving assisted tenancy, PHAs have two options for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. The PHA may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified.
- Passed an alternative inspection in the last 24 months.

Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

### **1. Timing of Initial Inspection**

HUD requires the unit to pass HQS AND/OR NSPIRE 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 AND/OR NSPIRE, (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

For new units proposed for the HCV program, life-threatening deficiencies must be resolved before the HAP contract is executed and the family moves into the unit.

If the unit fails the initial HQS AND/OR NSPIRE 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. Utility service must be available for testing at the time of the initial inspection

## 4. Appliances

Appliances must be in the unit in order to meet HQS AND/OR NSPIRE requirements.

## **8-2 F. HQS AND/OR NSPIRE INSPECTIONS [24 CFR 982.405(a)]**

Annual and Biennial HQS AND/OR

NSPIRE Inspections

HUD requires the PHA to inspect each unit under HAP contract at least biennially (or triennially for small rural PHAs), to confirm that the unit still meets NSPIRE standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

Biennial Inspections:

DHC will perform HQS AND/OR NSPIRE inspections biennially in accordance with HUD requirements. DHC may employ alternative inspection methods to meet this requirement.

DHC must conduct an initial HQS AND/OR NSPIRE inspection before entering into a HAP contract, and interim HQS AND/OR NSPIRE inspections, if a family or government official notifies DHC of a unit's failure to comply with HQS AND/OR NSPIRE. DHC may not employ alternative inspection methods for these types of HQS AND/OR NSPIRE 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 AND/OR NSPIRE 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 AND/OR NSPIRE 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 compliance with the biennial HQS AND/OR NSPIRE 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 cited deficiency would have resulted in a failure score under HQS AND/OR NSPIRE. If no such deficiency exists, DHC may rely on the inspection to demonstrate compliance with the biennial HQS AND/OR NSPIRE inspection requirements. If such a deficiency does exist, DHC may not rely on the inspection to demonstrate HQS AND/OR NSPIRE compliance.

Under any circumstances described above in which DHC is prohibited from relying on an alternative inspection methodology, DHC will conduct an HQS AND/OR NSPIRE inspection and follow HQS AND/OR NSPIRE procedures to remedy any noted deficiencies. The HQS AND/OR NSPIRE 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 AND/OR NSPIRE.

Each unit under a HAP Contract must have an annual inspection at least biennially before the anniversary date of the last inspection.

### **Correction Timeframes**

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

## **8-2 G. SPECIAL INSPECTIONS**

### **Complaint Inspections [CFR 982.405(c)]**

If at any time the participant family or owner notifies DHC that the unit does not meet HQS AND/OR NSPIRE, 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 AND/OR NSPIRE 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.
  - o 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.
  - o 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.

## **8-2 I. CONSEQUENCES IF OWNER IS RESPONSIBLE FOR HQS AND/OR NSPIRE VIOLATIONS [24 CFR 982.405 & 453]**

### **1. HAP (Rent) Abatement**

When it has been determined that a unit fails to meet HQS AND/OR NSPIRE, 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 AND/OR NSPIRE inspection requirements, DHC may allow the unit to pass upon the owner's self-certification that the HQS AND/OR NSPIRE 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 AND/OR NSPIRE violations during the previous 12 months. 24 CFR 982.404(a)(3) requires that DHC "verifies" HQS AND/OR NSPIRE repairs.

To comply with this requirement DHC may elect to do a re-inspection to verify all HQS AND/OR NSPIRE 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 AND/OR NSPIRE process.

Owner self-certifications will not be permitted if a unit fails an HQS AND/OR NSPIRE 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 AND/OR NSPIRE 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:
  - o A repair cannot be completed because required parts or services are not available.
  - o A repair cannot be completed because of weather conditions.
  - o 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 AND/OR NSPIRE 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 AND/OR NSPIRE, the HAP Contract cannot be reinstated.

#### **8-2 J. CONSEQUENCES IF PARTICIPANT IS RESPONSIBLE FOR HQS AND/OR NSPIRE VIOLATIONS [CFR 982.404(B)]**

If HQS AND/OR NSPIRE 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 AND/OR NSPIRE 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 AND/OR NSPIRE 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 AND/OR NSPIRE, 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.

### **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 AND/OR NSPIRE 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.

### **8-3A. 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 AND/OR NSPIRE) or the National Standards for the Physical Inspection of Real Estate (NSPIRE) [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]
  - For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]
- The PHA will not screen applicants for family behavior or suitability for tenancy.  
The PHA will not provide additional screening information to the owner.

#### **9-1 B. 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, or brother 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€]. 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 AND/OR NSPIRE) [24 CFR 982.305 and 24 CFR 982.401] or NSPIRE Standards [Notice PIH 023-28]

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 NSPIRE or National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS AND/OR NSPIRE, as well as the process for HQS AND/OR NSPIRE or NSPIRE 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 AND/OR NSPIRE space requirements [24 CFR 982.402(d)] or [24 CFR 5.703(d)(5)]. The family must be allowed

to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family.. See Chapter 5 for a full discussion of subsidy standards.

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.

## **9-1 D. 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 owner, and 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 the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

#### 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 unit has been inspected by the PHA and meets NSPIRE or HQS AND/OR NSPIRE standards;
- 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

2. 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.

## **9-1 F. 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 the owner 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

##### 10-1 A. ALLOWABLE MOVES

HUD lists five (6) 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:
  - o DHC has terminated the HAP Contract for the owner's breach; or
  - o 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 982.354(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 982.354(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.354(b)(1)(ii)].

## 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 982.354(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, or human trafficking, 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)

### **10-1 B. 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, or human trafficking, 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 982.354(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 982.354(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 982.354(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 982.354(e)(2)] DHC will allow exceptions for emergencies, 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 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.

#### 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 982.354(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 982.354(d)(2), Notice PIH 2016-09]. 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 its current unit with continued HCV assistance

If the family chooses 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's 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 within 15 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.

## **10-2 C. 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, or human trafficking, 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 [24 CFR 982.355(c)(1)]..

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 2016-09].

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 2016-09]

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 2016-09]

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 2016-09]

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.

## **10-2 D. 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 2016-09].

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 2016-09].

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 2016-09].

### 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 2016-09]**

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 2016-09].

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 2016-09]

### **10-2 E. 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 2016-09]. 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 2016-09, 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 2016-09]**

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 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 2016-09]**

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 2016-09.

#### **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 2016-09]

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 2016-09].

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

## REEXAMINATIONS

### INTRODUCTION

The DHC is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and DHC's policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

### **PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]**

#### **11-I.A. OVERVIEW**

The DHC must conduct a reexamination of family income and composition at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for annual reexaminations, the information to be collected and verified, and annual reexamination effective dates.

Unlike when performing an interim reexamination or at intake, at annual reexamination, the DHC must determine the income of the family for the previous 12-month period, except where the DHC uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. DHC also has the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the DHC's policies related to streamlined income determinations and the use of safe harbor income verifications.

## 11-I.B. SCHEDULING ANNUAL REEXAMINATIONS

The DHC must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

### DHC's Policy

The DHC will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the DHC will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the DHC will perform a new annual reexamination.

The DHC also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The DHC is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the DHC. However, the DHC should give tenants who were not provided the opportunity the option to complete Form HUD-92006 at this time [Notice PIH 2009-36].

### DHC Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the DHC to request a reasonable accommodation (see Chapter 2).

Notification of annual reexamination interviews will be sent by first-class mail 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.

If the family is unable to attend a scheduled interview, the family should contact the DHC in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the DHC will send a second notification with a new interview date and appointment time.

If a family fails to attend two scheduled interviews without DHC approval, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the DHC must execute a certification attesting to the role and the assistance provided by any such third party.

## 11-I.C. CONDUCTING ANNUAL REEXAMINATIONS

As part of the annual reexamination process, families are required to provide updated information to the DHC regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

### DHC Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a DHC-designated reexamination form as well as supporting documents or forms related to the family's income, expenses, and family composition.

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. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations DHC asks whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

### DHC Policy

At the annual reexamination, the DHC will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The DHC will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the DHC proposes to terminate assistance based on lifetime sex offender registration information, the DHC must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the 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 include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS/NSPIRE) (see Chapter 8), the DHC must issue the family a new voucher, and the family and DHC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the DHC must terminate the HAP contract in accordance with its terms [24 CFR 982.403].



### **11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

Section 327 of Public Law 109-115 established restrictions on the ongoing eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

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

Students who reside with parents in an HCV assisted unit are not subject to this provision. It is limited to students who are receiving assistance on their own, separately from their parents.

#### **DHC Policy**

During the annual reexamination process, the 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 their parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on their own income or the income of their parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on their own income and the income of their parents (if applicable), the DHC will process a reexamination in accordance with the policies in this chapter.

### **11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The DHC must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where the DHC uses a streamlined income determination as indicated in Chapter 7 of this policy. The DHC may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The DHC should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for DHC policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The DHC determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD–50058; and
- The amount of prior-year income reported by the family on the DHC’s annual reexamination paperwork.

**Step 2:** The DHC takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the DHC must use the annual income from the interim to determine the family’s total annual income, provided there are no additional changes.
- If the DHC did not perform an interim or there have been changes since the last reexamination, the DHC moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

#### PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees

with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

### **11-I.F. EFFECTIVE DATES**

The PHA must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

#### PHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the PHA chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.

If the family causes a delay in processing the annual reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

## **PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]**

### **11-II.A. OVERVIEW**

Family circumstances may change between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances the PHA must process interim reexaminations to reflect those changes.

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a

reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

## **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

### **Reporting**

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

#### PHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

### **New Family Members Not Requiring PHA Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 CFR 982.551(h)(2)].

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

#### PHA Policy

Families must request PHA approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit

for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by the PHA prior to the individual moving into the unit.

The PHA will not approve the addition of a new family or household member unless the individual meets the PHA’s eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the PHA determines an individual meets the PHA’s eligibility criteria and documentation requirements, the PHA will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the PHA determines that an individual does not meet the PHA’s eligibility criteria or documentation requirements, the PHA 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 PHA will make its determination within 10 business days of receiving all information required to verify the individual’s eligibility.

### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any household member no longer lives in the unit [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

#### **PHA Policy**

If a household member ceases to reside in the unit, the family member( including a live in aide,) must inform the PHA within 10 business days. 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. 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.

## **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

### **Overview**

Interim reexaminations for changes in income or expenses may be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### **Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

#### **PHA Policy**

The PHA will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

### **Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]**

#### ***Increases Less than 10 Percent***

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

#### ***Increases 10 Percent or Greater***

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income

during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

#### PHA Policy

When a family reports an increase in their earned income between annual reexaminations, the PHA will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

#### ***Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]***

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

#### ***Cumulative Increases [Notice PIH 2023-27]***

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

#### ***Family Reporting***

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

### PHA Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 10 business days of the date the change takes effect. The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA may also require the family to submit the changes in writing.

Within 10 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

### **11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]**

#### **Changes Reported Timely [Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

#### **Changes Not Reported Timely [Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may



choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

#### PHA Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, the PHA will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to PHA management operations. The PHA will decide to apply decreases retroactively on a case-by-case basis. When the PHA applies the results of interim decreases retroactively, the PHA will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with PHA policies.

The PHA will also clearly communicate the effect of the retroactive adjustment to the owner.

### **PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT**

#### **11-III.A. OVERVIEW**

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes [24 CFR 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

#### **11-III.B. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

##### **Payment Standards [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard.
- If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

#### **Subsidy Standards [24 CFR 982.505(c)(4)]**

If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in the PHA's subsidy standards (see Chapter 5), the new family unit size must be used to determine the payment standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

#### **Utility Allowances [24 CFR 982.517(d)]**

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5]. Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [HCV GB, p. 18-8].

##### PHA Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

The amount and effective date of the new HAP payment

The amount and effective date of the new family share of the rent

The amount and effective date of the new tenant rent to owner

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

##### PHA Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

### **11-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.

### **PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]**

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

## EXHIBIT 11-1: CALCULATING Income AT ANNUAL REEXAMINATION

### Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

#### Last reexamination – 3/1/2023 Annual Reexamination

|                        |                                       |
|------------------------|---------------------------------------|
| <u>Ruby:</u>           | <u>Georgia:</u>                       |
| <u>Wages: \$30,000</u> | <u>SSI: \$10,980 (\$915 monthly)s</u> |

#### The EIV report pulled on 12/15/2023

|                                                 |                            |
|-------------------------------------------------|----------------------------|
| Ruby:                                           | Georgia:                   |
| Wages Total: \$33,651                           | SSI Total: \$10,980        |
| Quarter 3 of 2023: \$8,859 (City Public School) | 2023 benefit \$915 monthly |
| Quarter 2 of 2023: \$8,616 (City Public School) |                            |
| Quarter 1 of 2023: \$8,823 (City Public School) |                            |
| Quarter 4 of 2022: \$7,353 (City Public School) |                            |

#### Income Reported on Reexamination Application

|                                                          |                                            |
|----------------------------------------------------------|--------------------------------------------|
| <u>Ruby:</u>                                             | <u>Georgia:</u>                            |
| <u>Wages at City Public School: \$32,000</u>             | <u>SSI benefits: \$10,980 (no changes)</u> |
| <u>(switched jobs but no permanent change to amount)</u> |                                            |

#### Calculating Ruby's wages:

Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.

#### Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination).

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH

Owner would be required to verify her current income in accordance with HUD's verification hierarchy.

Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: \$33,651

Myers Family Total Annual Income:

\$45,399

Georgia (Other Youth Under 18):

SSI: \$11,748

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:  
Family Disagrees with EIV**

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271  
Quarter 3 of 2023: \$2,500 (Viking Bakery)  
Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)  
Quarter 2 of 2023: \$1,300 (Sasha's Sweets)  
Quarter 2 of 2023: \$584 (Larry's Concessions)  
Quarter 2 of 2023: \$2,401 (Viking Bakery)  
Quarter 1 of 2023: \$6,500 (Sasha's Sweets)  
Quarter 4 of 2022: \$600 (Sasha's Sweets)  
SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

### Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

#### Last reexamination – 11/1/2023 Annual Reexamination

|                                                                                                            |                                                                                                   |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <u>Samantha:</u><br>Business income: \$28,000<br>VA disability pension: \$12,000<br>Child support: \$2,400 | <u>Fergus:</u><br>Wages: \$8,250<br>Other non-wage income: \$3,000 (Go Fund Me online fundraiser) |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|

#### The EIV report pulled on 9/16/2024

Samantha:  
Wages Total: \$0 (no wage data reported since Q1 2023)

Fergus:  
Wages Total: \$8,600  
Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)  
Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)  
Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)  
Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)  
Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

#### Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

|                                                                                                                                                                                                                                                                                         |                                  |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <u>Samantha:</u><br>Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)<br>VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)<br>Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change) | <u>Fergus:</u><br>Wages: \$6,000 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|

#### Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).



Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

#### Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

#### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

#### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the

following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

#### Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

#### Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):  
Own business: \$18,000  
Pension: \$12,300  
Child support: \$1,200

Fergus (Co-head):  
Wages: \$9,360

Poole Family Total Annual Income: \$40,860

## 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

### 12-1 A. 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.

### 12-1 B. 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.

## **12-1 C. 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.

## **12-1 D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires DHC to terminate assistance in the following circumstances:

### **1. Eviction [24 CFR 982.552(b) (2)]. , 24 CFR 5.2005(c)(1)]**

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 SSN 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 lease

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 contendere. 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.

#### **a. 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 three 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 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.

### 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. DHC defines 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 unit without 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.

### **12-2 B. 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.

## **12-2 C. 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-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

This section describes the protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. 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.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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, stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking 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 [see 24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking 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, sexual assault, stalking, or human trafficking [see 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)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].



### **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, stalking, or human trafficking 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, stalking, or human trafficking 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)].

## **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.

## **12-2H. 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 the participant.

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 result 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.

### **12-3 C. 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.

### **12-3 E. 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

##### 13-1 A. 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 and apartment 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.

### **13-1 B. 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 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 the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the HQS or NSPIRE, 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.

### **13-1 D. 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 or NSPIRE 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 of the household that:

- Threatens the right to peaceful enjoyment of the premises by other residents.
- Threatens the health or safety of other residents, of employees of 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, who formulates 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 HAP Contract 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.

## **13-2 C. 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.

### **13-2 D. 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 or NSPIRE size requirements due to change in family composition [24 CFR 982.403] – see chapter 8.
  - The unit does not meet HQS or NSPIRE [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.

### **13-2 G. 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 participant 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**

##### **14-1 A. 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, *"What You Should Know about EIV," (HUD-1141-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. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

## **14-1 B. 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-day notice 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 section that 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.

## **14-2 C. 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.

## **14-2 D. 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.

### De Minimis Errors [24 CFR 5.609(c)(4)]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

### DHC Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

### 1. 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

## **CHAPTER 15**

### **SPECIAL HOUSING TYPES AND THE HCV HOMEOWNERSHIP PROGRAM**

#### **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]**

##### **15-2 A. OVERVIEW [24 CFR 982.625]**

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option 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.

## **15-2 C. SELECTION OF FAMILIES [24 CFR 982.626]**

Applicants for the HOP are not required to participate in DHC's Family Self Sufficiency ("FSS") program 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 and must meet HOP and HCV program eligibility requirements as defined in this Admin Plan.

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 OR NSPIRE 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.

### **15-2 E. 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 OR NSPIRE

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 OR NSPIRE inspection within 10 business days. Any items found not to meet HQS OR NSPIRE 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 OR NSPIRE 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)].

### **15-2 H. 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 any interest 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 OR NSPIRE 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 OR NSPIRE inspections at any time provided notice is given in accordance with HQS OR NSPIRE 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.

#### **15-2 L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]**

Subject to the restrictions on portability included in HUD regulations and 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.

### **15-2 N. 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.

### **15-2 O. 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.

### **15-2 P. 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 funds in 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.

## **16-2 B. 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<sup>th</sup> 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. Decisions Subject to Informal Hearing

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 will 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 officer will 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.

**16-3 D. HEARING AND APPEAL PROVISIONS FOR NON-CITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time 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.

### **16-3 E. 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 *repayment 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 1<sup>st</sup> day of the month. If the 1<sup>st</sup> does not fall on a business day, the due date is the close of business on the first business day after the 1<sup>st</sup>.

**e. Non-Payment by Family**

If a payment is not received by the end of the business day on the 5<sup>th</sup> 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 deceased 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.

### **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**

### **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.

### **16-7 B. 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**

### **PROJECT BASED VOUCHERS**

#### **PART I: GENERAL REQUIREMENTS**

##### **17-1A. 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.

##### **17-1B. 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: <sup>1</sup>

- {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 14 days 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 17(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 individual 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).

#### **17-1C. 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**

#### **17-2A. 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 of 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 983.51)**

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 or NSPIRE 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 983.51)**

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 Proposals Subject to a Previous Competition Under a Federal, State or Local Housing Assistance Program**

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 or NSPIRE 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.

## **17-2B. 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.

## **17-2C 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.

## **17-2D. INELIGIBLE UNITS [24 CFR 983.53 and 983.52]**

Ineligible units for PBV assistance include those that are:

17-1.1 Shared housing.

17-1.2 Units on the grounds of a penal, reformatory, medical, mental, or similar public or private institutions.

17-1.3 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).

17-1.4 College or other school dormitories.



- 17-1.5     Manufactured homes.
- 17-1.6     Cooperative housing
- 17-1.7     Transitional housing.
- 17-1.8     Public housing.
- 17-1.9     Unit subsidized with any other form of Section 8 Assistance.
- 17-1.10    Unit subsidized with any governmental rent subsidy.
- 17-1.11    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.

#### **17-2E. 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.

#### **17-2F. 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.

## **17-2G. 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.

## **17-2H. SITE SELECTION STANDARDS**

### **1. Compliance with PBV Goals, Civil Rights Requirements, and HQS or NSPIRE 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.

## **17.2 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**

### **17-3A. 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 or NSPIRE, 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 or NSPIRE.

## 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.

### **17-3B. 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.

### **17-3C. 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.

### **17-3D. 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**

### **17-4 A. HOUSING QUALITY STANDARDS or National Standards For the Physical Inspection of Real Estate [24 CFR 983.101]**

The housing quality standards (HQS) or NSPIRE standards 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.

### **17-4 B. 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.

### **17-4 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. 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)

### **17-4 E. 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 or NSPIRE 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.

## **17-4F. 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 or NSPIRE 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.

## **17-4G. 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 or NSPIRE. To qualify as existing housing, units must substantially comply with HQS or NSPIRE on the proposal selection date. However, DHC will not execute the HAP Contract until the units fully comply with HQS or NSPIRE.

### **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 or NSPIRE.

### **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 or NSPIRE.

### **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 or NSPIRE. 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 or NSPIRE, 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 or NSPIRE violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of HQS or NSPIRE.

#### 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**

### **17-5A. 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].

### **17-5B. HAP CONTRACT REQUIREMENTS**

#### 1. Contract Information [24 CFR 983.203]

The HAP Contract must specify the following information:

HAP Contract Part I

- Exhibit A
  - o The total number of contract units by number of bedrooms.
  - o 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.

- o The number of contract units in each building by bedroom size as well as accessibility for persons with disabilities.
  - o Maximum number of units by bedroom size and type that may receive assistance at any time.
  - o Multi-stage projects must include a description for units in each completed phase.
- Exhibit B
  - o Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner.
  - o Supportive services and/or referrals to be provided at the property.
- Exhibit C
  - o 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
  - o 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
  - o As determined and/or required by DHC.
- Identify if this property requires a Single or Multi-Stage HAP Contract
  - o Single stage - the HAP Contract is executed upon acceptance of all of the units.
  - o 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. Execution of the HAP Contract [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 or NSPIRE. 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 or NSPIRE Violations [24 CFR 983.207(b)]

DHC will abate and terminate HAP Contracts for non-compliance with HQS or NSPIRE in accordance with the policies used in the tenant-based voucher program.

## **17-5C. 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.

## **17-5D. 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.

## **17-5E. CONDITION OF CONTRACT UNITS [24 CFR 982.207]**

The owner must maintain and operate the contract units and premises in accordance with HQS or NSPIRE, 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.

## **17-5F. 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.

## **17-5G. 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.

#### **17-5H. 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 or NSPIRE standards, and the owner is maintaining the premises and all assisted units in accordance with HQS or NSPIRE.
- 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.

## **17-5I. HOUSING QUALITY AND DESIGN REQUIREMENTS [24 CFR 983.101€ 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]**

### **17-6A. 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:
  - o DHC's Section 8 Program Eligibility Requirements.
  - o DHC established Preferences.
  - o Authorization for the release of Information/Privacy Act.
  - o 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



#### **17-6B. 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.

#### **17-6C. 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.

#### **17-6D. 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.

## 17-6E. 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.
4. 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.

2. Acceptance of Offer [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.

## **17-6F. 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.

## **17-6G. 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 or NSPIRE 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, if they believe they have been discriminated against.

## **PART VII: LEASE [24 CFR 983.256]**

### **17-7A. General Requirements**

The lease between the family and owner must be in 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. Initial Term and Lease Renewal [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 from the 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.

## **17-7B. MOVES**

4. 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.

#### ***5. 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.

## **17-8. DETERMINING RENT TO OWNER [24 CFR 983.301]**

### **17-8 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 or NSPIRE and is leased to and occupied by an eligible family in accordance with the HAP Contract.

#### **17-8 B. 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.

#### **17-8 C. 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.

#### **17-8 D. 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.

#### **17-8 E. 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.

#### **17-8 F. 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.

## **17-8 G. 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 or NSPIRE. 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.

### **17-8 I. 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.

## **17-8 J. 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.

## **17-8 K. 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 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.

### 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.

## **17-8 L. 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 18

### 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

##### 18-1.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 an



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.

### **18-1.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 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy. 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), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) 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.

- For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
  - Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effective immediately.
  - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
  - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
    - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.

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
- REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
  - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20)
- 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.

### **18-1.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.

See Exhibit 18-1 for information on projects to which the PHA has attached RAD PBV assistance.

### **18-1.D. RELOCATION REQUIREMENTS**

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [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.
- Any non-RAD PBV units located in the same project are also subject to the right to return.

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, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. 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

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- 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. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 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.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. 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. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

#### **18-1.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. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. 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. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

## **PART II: PBV PROJECT SELECTION**

### **18-2.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.

### **18-2.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]**

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- 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 nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit 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) demonstrates other ownership and control arrangements approved by HUD.
- Control may be established through the terms of the project owner’s governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

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 nonprofit entity.

The requirement for a public or nonprofit entity is satisfied if a public or nonprofit 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

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or

A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

### **18-2.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 definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project

may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the 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.

#### PHA Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will a HUD-approved independent entity.

### **18-2.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.

#### **18-2.E. PBV PERCENTAGE LIMITATION [Notice PIH 2012-32, REV-3 and Notice PIH 2023-19]**

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. The number of PBV units excluded from the PHA’s PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. 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.

#### **18-2.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.

#### **18-2.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**

### **18-3.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.

### **18-3.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.

### **18-3.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

1. 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)

### **18-3.D. INSPECTING UNITS**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with NSPIRE standards. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet NSPIRE standards by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, NSPIRE requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in

accordance with NSPIRE requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

**Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]**

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 NSPIRE.

**Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every 24 months (or once every 36 months for small rural PHAs) 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 NSPIRE. 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 INSPIRE.

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.

**Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]**

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

PHA Policy

The PHA will not rely on alternative inspection standards

**Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with NSPIRE, 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 NSPIRE deficiency, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of NSPIRE standards.

In conducting PHA supervisory quality control 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); Notice PIH2017-21]**

In the case of PHA-owned units, all required 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**

### **18-4.A. OVERVIEW [RAD PBV Quick Reference Guide 6/20]**

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.

### **18-4.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [RAD PBV Quick Reference Guide 6/20; Notice PIH 2019-23]**

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). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to PBV HAP Contract. 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 for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are 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 permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

#### **Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]**

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 2019-23]**

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept,

of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is 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, 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 NSPIRE Deficiencies [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 NSPIRE. If the PHA determines that a contract does not comply with NSPIRE standards, 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 NSPIRE in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

### **18-4.C. AMENDMENTS TO THE HAP CONTRACT**

#### **Floating Units [Notice PIH 2019-23]**

"2019-23] Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to" 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. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

#### **Reduction in HAP Contract Units [Notice PIH 2019-23]**

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 written 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 the development has "floating" units have been permitted.

#### **18-4.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.

#### **18-4.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract, they certify 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 NSPIRE standards;
- 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.

#### **18-4.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.

#### **18-5.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]**

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 2019-23, (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. Any non-RAD units located in the same project are also subject to the right to return.

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.

### **18-5.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, meet asset limitation requirements, 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)], and meet asset limitation requirements. 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.

### **18-5.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]**

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. Any non-RAD PBV units located in the same project are also subject to these requirements.

#### 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:

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 give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E."

### **18-5.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 2019-23]**

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. Any non-RAD PBV units located in the same project are also subject to these 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 2019-23]**

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 as a whole, or for occupancy of particular PBV developments or units.

#### PHA Policy

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

## **18-5.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).

## **18-5.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]**

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 email) 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.

### **18-5.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, stalking, or human trafficking 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**

### **18-6.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.

### **18-6.B. LEASE [24 CFR 983.256]**

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 2091-23]**

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; and
- services; and • For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease

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); RAD PBV Quick Reference Guide (6/20)**

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 2019-23]**

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
- 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

These provisions apply to non-RAD PBV units located in the project as well."

***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 2019-23]**

RAD PBV Quick Reference Guide 6/20] Pre-Conversion Residents The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of: • The family's TTP minus the utility allowance (subject to any required phase-in); or • The Zero HAP Rent Cap, which is the lower of: -110 percent of the applicable FMR minus the utility allowance; or"

rent under the LIHTC program "the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements."

. 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 which case normal PBV rent requirements will apply to the family 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 Nspire standards, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

"HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements. After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted. Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request"

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 (6/20)]**

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. If a tenant residing in a converting project has not previously provided a security deposit, then the

owner may collect a security deposit at the time of initial lease execution. Otherwise, the security 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 2019-23]**

Current PH FSS participants will continue participate in the PHA's FSS program to 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.

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.

Any non-RAD PBV units located in the same project are also subject to these requirements.



## **20-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]**

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 2019-23]**

All in-place tenants at the time of conversion are eligible to remain in the project. Overhoused 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. Any non-RAD PBV units located in the same project are also subject to these requirements."

ject. 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 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/2019]**  
**Family's Right to Choice Mobility Under RAD PBV**, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods. PHA Policy To ensure that residents are fully aware of and understand their rights under choice mobility, the PHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification. Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

**Moving with Continued Assistance under Choice Mobility**

**If the family wishes to move with continued tenant-based assistance under choice mobility,"**

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. Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy.

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.

The PHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher. Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the PHA issues a choice mobility voucher, the PHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher."

### **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 or human trafficking 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 assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list. If no units are available for an internal transfer to a PBV development

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, stalking, and human trafficking 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, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

#### **20-VI.F. REEXAMINATIONS [PBV Quick Reference Guide (6/20)]**

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 2019-23]**

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.

ny non-RAD PBV units located in the same project are also subject to these requirements. 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 applies 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 the EID 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 2019-23]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV PBV and to Non-RAD PBV units located in the same project 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 requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, 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 2019-23]**

**In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v)"** (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 in accordance with Chapter 16 Part III: Informal Reviews and Hearings, 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 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)–(v). (See Chapter 16)  
The 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 2019-23]**

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 2019-23. 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. Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 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 minus any utility allowance
- The reasonable rent
- The rent requested by the owner"

### **20-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2012-32, REV-3.**

**PBV Quick Reference Guide "6/20; PHA Asset Repositioning "How to Apply OCAF for RAD PBV" Webinar]** RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, contract rents will be adjusted only by HUD's operating cost adjustment factor (OCAF) that is applied to the current contract rent, less the portion of the rent paid for debt service,"

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, (as determined by the PHA that administers the contract or the independent entity, as applicable), 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. The PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments is not required. Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF was not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps."

#### PHA Policy

The owner will request a contract rent adjustment from the PHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity 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 will only be increased up to the reasonable rent. The "independent entity will notify the PHA who administers the contract in writing of the results of its review of the rent adjustment request. The PHA who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the PHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. 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 2019-23. PBV Quick Reference Guide (6/20)]**

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. After conversion, the PHA that administers the contract must maintain the utility allowance schedule. The PHA may either 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. 982.517, respectively, or the PHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04. Each family transitions to the new utility allowance at their first recertification following conversion. PHA Policy The PHA will use the HCV utility allowance schedule for the RAD PBV 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 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 unit was 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 2019-23]; PHA Asset Repositioning “Phase-in of tenant Rents Webinar”**

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase a tenant's 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.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions. PHA Policy The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely 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 currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.) Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently" PBV TTP Year 3: Year 3 annual recertification 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.

"If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends. The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements."

## **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

### **18-6.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]**

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.

#### **Initial Certifications [Notice PIH 2019-23]**

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

#### **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.

### **18-6.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning "Phase-in of Tenant Rents" Webinar]**

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase 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.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

#### PHA Policy

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely 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 currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP

Year 3: Year 3 annual recertification 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.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in.

Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

### **18.6.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.

## EXHIBIT 18-1: PBV DEVELOPMENT INFORMATION

(Fill out one for each development)

**Date:** [Enter the date on which this form was completed]

### DEVELOPMENT INFORMATION

**Development Name:** [Insert name of PBV development]

**Address:** [Insert full address of PBV development]

**Owner Information:** [Insert PBV development owner name and contact information. If development is PHA-owned, enter "PHA-owned."]

**Property Management Company:** [Insert property management company name and contact information, or enter "None"]

**PHA-Owned:** [Enter "Yes" or "No." If yes, enter name of independent entity.]

**Mixed-Finance Development:** [Enter "Yes" or "No." If yes, list other types of funding and units to which other funding applies.]

### HAP CONTRACT

**Closing Date:** [Enter closing date of RAD conversion]

**List Which RAD Notice Applies to the Project:** [Enter "PIH 2012-32, REV-2," "PIH 2012-32, REV-3," or "PIH 2019-23"]

**Effective Date of Contract:** [Enter start date of HAP contract]

**HOTMA Requirements:** [If HAP contract was signed prior to April 18, 2017, enter "Pre-HOTMA." If HAP contract was signed on or after April 18, 2017, enter "Post-HOTMA."]

**Term of HAP Contract:** [Enter term from HAP contract]

**Expiration Date of Contract:** [Enter expiration date from HAP contract]

### PBV UNITS

| □                      | 0-BR□    | 1-BR□    | 2-BR□    | 3-BR□    | 4-BR□    | 5-BR□    | Total-□ |
|------------------------|----------|----------|----------|----------|----------|----------|---------|
| #-of-Units□            | □        | □        | □        | □        | □        | □        | □       |
| Initial-Contract-Rent□ | 1<br>\$□ | 1<br>\$□ | 1<br>\$□ | 1<br>\$□ | 1<br>\$□ | 1<br>\$□ | □       |

**Unit Designation:** [Enter "Fixed" or "Floating"]

**Accessible Units and Features:** [Identify which units are accessible and describe accessibility features or enter "None"]

**Target Population:** [Describe targeted population in accordance with HAP contract or enter “None”]

**Excepted Units (Notice PIH 2012-32, REV-2 Developments Only):** [Identify excepted unit types below or enter “None”]

**Supportive Services:** [Enter “Yes, see Exhibit D of HAP contract” or enter “No”]

**Elderly Units:** [Enter “Yes” or “No.” If yes, identify which units are elderly units.]

**Disabled Units** [Enter “Yes” or “No.” If yes, identify which units are for persons with disabilities.]

#### **WAITING LIST AND SELECTION**

**Waiting List Type:** [Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for entire PBV program,” or “Merged with another assisted housing program”]

**Preferences:** [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different from HCV, note in Section 18.1.C. of this policy.]

**Preference Verification:** [Enter “Same as HCV; see Chapter 7” or describe for each preference listed above. If different from HCV, note in Section 18.1.C. of this policy.]

**For the PBV program, is the income limit the same as the HCV program?** (Note: In mixed-finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter 3” or clearly describe]

#### **OCCUPANCY**

**Subsidy Standards:** [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV, note in Section 18.1.C. of this policy.]

**Utilities:** [Enter in accordance with HAP contract Exhibit C]

**Vacancy Payments:** [Enter in accordance with HAP contract Part 1, e, 2 and Section 18-IV.F. within this chapter]

## **CHAPTER 19**

### **SPECIAL PURPOSE VOUCHERS**

#### **INTRODUCTION**

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Stability Voucher program

#### **PHA Policy**

The PHA will administer the following types of special purpose vouchers: **[List special purpose vouchers administered by the PHA]**

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Foster Youth to Independence (FYI) program

Part III: Veterans Affairs Supportive Housing (VASH)

Part IV: Mainstream voucher program

Part V: Non-Elderly Disabled (NED) vouchers

Part VI: Stability Voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.



## **PART I: FAMILY UNIFICATION PROGRAM (FUP)**

### **19-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]**

#### **Overview**

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA's waiting list and determining whether they are eligible to receive assistance under the PHA's HCV program.

### **Assigning Vouchers [FUP FAQs]**

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

#### **PHA Policy**

The PHA has not designated any specific number or percentage of FUP vouchers for youths or families. The PHA will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

### **19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)**

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 18-I.C. and 18-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

## **Supportive Services**

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

### PHA Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

### PHA Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

## 19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

*Lack of adequate housing* means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
  - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
  - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

## 19-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

### Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25<sup>th</sup> birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

## **19-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]**

### **Maximum Assistance Period**

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

### **Extension of Assistance**

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

### **Statutory Exceptions**

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### PHA Policy

The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.



## Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### PHA Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual’s education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

#### PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth’s hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

#### **FSS Enrollment at 24 Months**

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

#### PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at their second regular reexamination of the education, workforce development, and employment requirements described above.

## **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

## **FSS Enrollment After 48 Months**

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

### PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to a FUP youth.

## **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

## **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

## **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

### PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexamination date. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must

submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

## **19-I.F. REFERRALS AND WAITING LIST MANAGEMENT**

### **Referrals**

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

#### PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file

along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

### **Waiting List Placement**

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

#### **PHA Policy**

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

### **Waiting List Selection**

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

## **19-I.G. PHA HCV ELIGIBILITY DETERMINATION**

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

#### **PHA Policy**

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

### **Additional FUP Eligibility Factors [FUP FAQs]**

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

#### PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19.I.H. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

#### PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: NSPIRE inspections, determination of rent reasonableness, etc.).

### **19-I.I. TERMINATION OF ASSISTANCE**

#### **General Requirements**

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

### **FUP Family Vouchers**

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

#### PHA Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

### **FUP Youth Vouchers**

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

#### PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

### **9-I.J. FUP PORTABILITY**

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A



PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

### **Considerations for FUP Youth Vouchers**

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

### **19-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

#### PHA Policy

The PHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

## **PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE**

### **19-II.A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2023-04; FR Notice 1/24/22]**

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28, Notice PIH 2021-26, or Notice PIH 2023-04, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers. Where the PHA has a combined FYI and/or

FUP size of no more than 10 vouchers, the PHA may request FYI vouchers with at least 50 percent utilization of its FUP and/or FYI vouchers. Where the PHA has a combined FYI and/or FUP size of 11 or more vouchers, the PHA may request FYI vouchers with 90 percent or greater utilization of its FUP and/or FYI vouchers. For competitive awards, the number of vouchers is dependent on PHA program size and need.

## **19-II.B. PARTNERING AGENCIES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar]**

### **Public Child Welfare Agency (PCWA)**

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

The PCWA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

### **Continuum of Care (CoC) and Other Partners**

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.

## **19-II.C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2023-04; FYI Q&As; FYI FAQs]**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25<sup>th</sup> birthday);
  - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
  - *At risk of being homeless* is fully defined at 24 CFR 576.2.
    - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

### **19-II.D. SUPPORTIVE SERVICES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]**

Supportive services may be provided by the PHA, PCWA, or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

#### PHA Policy

Additional supportive services will not be offered.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive services.

### **19-II.E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]**

#### **Referrals**

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

### PHA Policy

The PHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

### **Waiting List Placement [Notice PIH 2023-04 and FYI FAQs]**

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### PHA Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

### **Waiting List Selection**

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

### **19-II.F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]**

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

#### PHA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

### **Additional Eligibility Factors**

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

#### PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

### **19-II.G. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FYI voucher holder of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

#### PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this policy. FYI youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5.

Vouchers will be issued in accordance with PHA policies in Chapter 5, Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the youth locates a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2023-04].

### **Turnover [Notice PIH 2023-04]**

Awards of FYI Tenant Protection Vouchers (TPVs) continue to be administered under the requirements of Notice PIH 2019-20. This includes turnover requirements and the requirement to

inform HUD should a youth not use a voucher or leave the program. For example, FYI TPVs awarded under Notice PIH 2019-20 “sunset” when a youth leaves the program. This means that the PHA cannot reissue FYI TPV assistance issued under that notice to another youth when an initial youth exits the HCV program. HUD does not have the authority to allow the voucher to be used for a youth other than the one identified in the request.

### **19-II.H. MAXIMUM ASSISTANCE PERIOD [Notice PIH 2023-04 and FYI FAQs; FR Notice 1/24/22]**

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

#### **Extension of Assistance**

FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

#### **Statutory Exceptions**

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA’s FSS program if they certify that they meet one of the exceptions below:

- The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

#### **PHA Policy**

The PHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception.

- The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

- The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

#### PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

### **Education, Workforce Development, or Employment Activities**

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

#### PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10-16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma)

that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

#### PHA Policy

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.



- The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The FYI voucher holder was employed.

#### PHA Policy

The PHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

### **FSS Enrollment at 24 Months**

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

#### PHA Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexamination of the education, workforce development, and employment requirements described above.

### **FSS Enrollment Between 36 and 48 Months**

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been "unable to enroll" in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

### **FSS Enrollment After 48 Months**

The PHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will

have already received their second and final extension.

#### PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to an FYI voucher holder.

### **Extensions of Assistance**

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

### **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

### **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

#### PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FYI voucher holder on the PHA's program with a written notification informing them that they may receive an extension of their FYI assistance if

they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexamination date. When necessary, the PHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements.

In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP

contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

### **19-II.I. TERMINATION OF ASSISTANCE [FYI FAQs]**

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

#### PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

### **19-II.J. PORTABILITY [FYI FAQs]**

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

### **19-II.K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22; Notice PIH 2024-03]**

PHAs that have initiated the selection process to project-base FYI and/or FUP vouchers may be eligible to project-base FYI and FUP units formally identified for project basing in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28, PIH 2021-26, and PIH 2023-04. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

#### PHA Policy

The PHA will not project-base FYI vouchers. All FYI vouchers will be used to provide

tenant-based assistance.

## **PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM**

### **19-III.A. OVERVIEW**

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
  - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair

Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

### **19-III.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]**

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

#### PHA Policy

In order to expedite the screening process, the PHA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran.

After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

### **19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]**

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

#### **Social Security Numbers**

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ)

as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

### **Income Eligibility**

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

#### PHA Policy

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

### **Screening**

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

### **Denial of Assistance [Notice PIH 2008-37]**

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

## **19-III.D. CHANGES IN FAMILY COMPOSITION**

### **Adding Family Members [FR Notice 9/27/21]**

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

### **Remaining Family Members [HUD-VASH Qs and As]**

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

### **Family Break Up [HUD-VASH Qs and As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

## **19-III.E. LEASING [FR Notice 9/27/21]**

### **Waiting List**

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

### **Exception Payment Standards**

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

### **Voucher Issuance**

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

#### PHA Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

### **Initial Lease Term**



Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

### **Ineligible Housing [FR Notice 6/18/14]**

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

### **Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an NSPIRE inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

#### PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

## **19-III.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]**

### **General Requirements**

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

### **Portability within the Initial VAMC or DSP's Catchment Area**

A VASH family can move within the VAMC's catchment area as long as case management can

still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
  - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area**

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA**

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

## **19-III.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]**

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

### **Cessation of Case Management**

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

### **VAWA [FR Notice 9/27/21]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

## **19-III.H. PROJECT-BASING VASH VOUCHERS**

### **General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]**

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable

under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

### **Failure to Participate in Case Management [FR Notice 9/27/21]**

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

#### PHA Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

### **Moves [HUD-VASH Qs and As, FR Notice 9/27/21]**

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and

- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

## **PART IV: MAINSTREAM VOUCHER PROGRAM**

### **19-IV.A. PROGRAM OVERVIEW [Notice PIH 2020-01]**

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

### **19-IV.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]**

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

### **19-IV.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]**

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

## **19-IV.D. WAITING LIST ADMINISTRATION**

### **General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

### **Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]**

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

#### PHA Policy

The PHA claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The PHA will offer the following preference:

## **19-IV.E. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

## **19-IV.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]**

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to

complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

## **PART IV: NON-ELDERLY DISABLED (NED) VOUCHERS**

### **19-V.A. PROGRAM OVERVIEW [Notice PIH 2013-19]**

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.
- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to

non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream) vouchers** enable non-elderly disabled families on the PHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA's voucher waiting list.

## **19-V.B. ELIGIBLE POPULATION**

### **General Requirements [Notice PIH 2013-19]**

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

### **NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]**

In addition to being eligible for the PHA's regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family's head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

## **19-V.C. WAITING LIST**

### **General Requirements [Notice PIH 2013-19]**

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.



Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

#### **NED Category 2 Referrals [NED Category 2 FAQs]**

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdictions or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

#### **Reissuance of Turnover Vouchers [Notice PIH 2013-19]**

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

### **19-V.D. LEASE UP [Notice PIH 2013-19]**

#### **Briefings**

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED

families as part of the briefing.

#### PHA Policy

In addition to providing families with a disabled person a list of accessible units known to the PHA, the PHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

The PHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

#### **Voucher Term**

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

#### PHA Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

#### **Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]**

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

#### **19-V.E. PORTABILITY [NED Category 2 FAQs]**

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may,

but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

### PHA Policy

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

## **PART VI: STABILITY VOUCHER PROGRAM**

### **19-VI.A. PROGRAM OVERVIEW [Notice PIH 2022-24]**

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act) provided new incremental funding for voucher assistance through Stability Vouchers (SVs) for households who are:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));
- At-risk of homelessness;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans and families that include a veteran family member that meet one of the above criteria.

HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. A PHA may request additional good cause regulatory waivers as established in Notice PIH 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of the PHA.

### **19-VI.B. PARTNERING ORGANIZATION [Notice PIH 2022-24]**

SV funding is only awarded to PHAs that partner with eligible Continuums of Care (CoCs) or other entities that serve the targeted population, such as Victim Service Providers (VSPs) and Veteran Service Organizations (VSOs) serving the targeted population in the PHA's jurisdiction to implement coordinated approaches to reduce the prevalence of homelessness, improve service engagement, and promote housing stability while ensuring geographical need of assistance.

The PHA must enter into a Memorandum of Understanding (MOU) with the CoC to establish a partnership with the CoC to pair SVs with CoC-funded supportive services, and to collaborate with the CoC and other stakeholders to develop a prioritization plan for these vouchers.

## **19-VI.C. REFERRALS [Notice PIH 2022-24]**

In general, families are issued SVs as the result of either:

- The direct referral process from the CoC or other partnering organizations; or
- A situation where the PHA makes an SV available in order to facilitate an emergency transfer for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

### **CoC Referrals**

The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to the PHA and to identify any CoC-funded available supportive services that may be paired with SVs.

The CoC or other partnering agency must certify that the SV applicants they refer to the PHA meet the definition of a qualifying individual or family for SV assistance.

The referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance. The PHA must retain this documentation as part of the family's file.

### **PHA Policy**

The CoC or partnering agency must establish and implement a system to identify SV-eligible individuals and families within the agency's caseload and make referrals to the PHA.

The CoC or other partnering agency must certify that the SV applicants they refer to the PHA meet SV eligibility criteria. The PHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Exhibit 19-1 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit 19-2 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the PHA and CoC or other partnering agency will identify staff positions to serve as lead SV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The PHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are SV-eligible.

### **Referrals from Outside the CoC**

The PHA must also take direct referrals from outside the CoC process if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for SV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

If a direct referral is taken from outside of the CoC, the PHA must enter into a partnership to receive direct referrals from another entity, assuming there are such additional organizations that can certify that an

individual or family is eligible for an SV.

The PHA must enter into an MOU with a partnering referral agency or may add the partnering referral agency to the MOU between the PHA and CoC.

## **19-VI.D. WAITING LIST [Notice PIH 2022-24]**

### **HCV Waiting List**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the SV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of SVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24.

#### PHA Policy

The PHA will post information about the SV program for families on the PHA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which SVs are limited.

Clearly state that the availability of these SVs is managed through a direct referral process.

Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for SV assistance.

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

### **SV Waiting List**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the SV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the SVs available, the PHA must maintain a separate waiting list for SV referrals. Upon turnover, SV vouchers must continue to remain available for eligible families.

Further, the SV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the SV waiting list.

### **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV in Chapter 4, they do not apply to SVs. However, if the PHA has a homelessness preference or a preference for survivors of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, the PHA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC, or the applicable partnering referral agency.

#### PHA Policy

The PHA does not offer either a homelessness or VAWA preference for the HCV waiting list.

### **SV Waiting List Preferences**

With the exception of a residency preference, which may not be applied to the PHA's SV waiting

list, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for SVs, or may simply choose to not establish any local preferences for the SV waiting list. The preference system may not prohibit SV admissions from any of the four qualifying categories of eligibility.

#### PHA Policy

No local preferences have been established for the SV waiting list.

### **19-VI.E. FAMILY ELIGIBILITY [Notice PIH 2022-24]**

#### **Referring Agency Determination of Eligibility**

The CoC or referring agency determines whether the individual or family meets any one of the eligibility criteria described in Notice PIH 2022-24 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the SV program and outlined below.

In order to be eligible for an SV, a household must meet one of four eligibility criteria:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)) and 24 CFR 578.3;
- At-risk of homelessness as defined in 24 CFR 5.78.3;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans [as defined in 38 U.S.C. 101(2); 38 CFR 3.1(d)] and families that include a veteran family member that meet one of the above criteria.

#### **Mandatory Denials**

HUD waived 24 CFR 982.552 and 982.553 in part for the SV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an SV. Instead, the SV alternative requirement listed in this section will apply to all SV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2022-24 and in this chapter, however, apply only when screening the individual or family for eligibility for an SV. When adding a family member after the family has been placed under a HAP contract with SV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Under alternative requirements for the SV program, mandatory denials for SV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA will also deny assistance to household members already receiving assistance from another program.

The PHA must deny admission to the program if any member of the family fails to sign and

submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited SV grounds for denial of admission first.

#### PHA Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited SV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

#### **Permissive Denial**

Notice PIH 2022-24 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to SV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for SV families.

If the PHA intends to establish permissive prohibition policies for SV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

#### PHA Policy

In consultation with the CoC, the PHA will apply permissive prohibition to the screening of SV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E. of the administrative plan.

The PHA will establish the following permissive prohibitions:

If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

Prohibitions based on criminal activity for the eligible SV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2022-24, the PHA **will not** deny an SV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years

A PHA has ever terminated assistance under the program for any member of the family

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act

The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease

The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3)

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity

### **Self-Certification of Income at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the SV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to SV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

#### PHA Policy

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, the PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.



### PHA Policy

The PHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the PHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination, the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and the PHA policies in Chapter 11.

### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

### **Social Security Number and Citizenship Status Verification**

For the SV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the SV program. Instead, PHAs may adopt policies to admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

### PHA Policy

The PHA will admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

### **Age and Disability Verifications**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher

level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

#### PHA Policy

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

#### **Income Targeting**

The PHA must determine income eligibility for SV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for SV families. The PHA may still choose to include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

#### PHA Policy

The PHA will not include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

### **19-VI.F. HOUSING SEARCH AND LEASING**

#### **Initial Voucher Term**

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, SV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

#### PHA Policy

All SVs will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

#### **Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that SV families may be interested in leasing in order to maintain a pool of eligible units.

#### PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that SV families may be interested in leasing to maintain a pool of eligible units. If an SV family selects a unit that passed a pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The family will be free to select his or

her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

### **Initial Lease Term**

Unlike in the standard the HCV program, SV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

### **Portability**

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to SVs. Exceptions are addressed below.

- Under SV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.
- A receiving PHA cannot refuse to assist an incoming SV family, regardless of whether the PHA administers SVs under its own ACC.
- If the SV family moves under portability to another PHA that administers SVs under its own ACC:
  - The receiving PHA may only absorb the incoming SV family with an SV (assuming it has an SV voucher available to do so).
  - If the PHA does not have an SV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with SV assistance and may not absorb the family with a regular HCV when the family leases the unit.
  - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's SV assistance, the SV administration of the voucher is in accordance with the receiving PHA's SV policies.
- If the SV family moves under portability to another PHA that does not administer SVs under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special SV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

#### PHA Policy

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for SV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

## **19-VI.G. PAYMENT STANDARDS**

### **Overview**

For the SV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for SVs. Lower SV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the SV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate SV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for SVs, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD-published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

#### PHA Policy

The PHA will not establish a higher payment standard amount for SVs. The PHA will use the same payment standards for HCV and SV.

All rent reasonableness requirements apply to SV units, regardless of whether the PHA has established an alternative or exception SV payment standard.

### **Increases in Payment Standards**

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to SV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

#### PHA Policy

The PHA will not establish an alternative policy for increases in the payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to SVs.

## **19-VI.H. PROJECT-BASED UNITS**

All tenant-based SV awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed.

All PBV requirements in 24 CFR Part 983 and in Chapter 17 apply to project-based SVs with the exception of 24 CFR 983.251(c)(1), which requires PHAs to select families for project-based units from its HCV or PBV waiting list. HUD is waiving this requirement and establishing an alternative requirement that PHAs receive SV referrals from CoC partners for vouchers as well as project-based assistance.

**EXHIBIT 19-1: SAMPLE STABILITY VOUCHER (SV) HOMELESS PROVIDER'S CERTIFICATION**

**Stability Voucher (SV)  
HOMELESS CERTIFICATION**

SV Applicant Name: \_\_\_\_\_

☐ Household without dependent children (complete one form for each adult in the household)

☐ Household with dependent children (complete one form for household)

Number of persons in the household: \_\_\_\_\_

**This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation**

**Check only one box and complete only that section**

**Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)**

☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or campground.

Description of current living situation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Homeless Street Outreach Program Name: \_\_\_\_\_ This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **Living Situation: Emergency Shelter**

- ☐ The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name: \_\_\_\_\_

*This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to the U.S. Department of Housing and Urban Development (HUD) or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).*

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **Living Situation: Recently Homeless**

- ☐ The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (e.g., households in rapid rehousing programs, residents of permanent supportive housing programs participating in Moving On, etc.)

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.*

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

- ☐ Emergency shelter OR ☐ A place unfit for human habitation

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

|                                                                     |
|---------------------------------------------------------------------|
| <b>EXHIBIT 19-2: SAMPLE VICTIM SERVICE PROVIDER'S CERTIFICATION</b> |
|---------------------------------------------------------------------|

**Stability Voucher (SV)**

**SAMPLE CERTIFICATION FOR SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, STALKING, AND/OR HUMAN TRAFFICKING**

**Use of this Optional Form:**

Service providers may utilize this form to certify a family's eligibility for SV to document households who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, and/or human trafficking. In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for the U.S. Department of Housing and Urban Development's (HUD) Stability Voucher program.

**Confidentiality:**

All information provided during the referral process concerning the incident(s) of domestic violence, dating violence, dating violence, sexual assault, stalking, and human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED ON BEHALF OF SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, STALKING, AND/OR HUMAN TRAFFICKING**

SV Applicant Name: \_\_\_\_\_

The applicant named above is a survivor of (please check from the list all that apply):

- ☐ Domestic Violence
- ☐ Dating Violence
- ☐ Sexual Assault
- ☐ Stalking
- ☐ Human Trafficking

This certifies that the above named individual or household meets the definition for persons who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking and/or human trafficking as these terms are defined under 34 U.S.C. Section 12291 of the Violence Against Women Act<sup>1</sup> and 22 U.S.C. Section 7102(11) of the Trafficking Victims Protection Act.<sup>2</sup>

I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Authorized Agency Representative Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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<sup>1</sup> The Violence Against Women Act 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. VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other federally-funded social service programs available to assist victims in rebuilding their lives.



## EXHIBIT 19-3: SAMPLE SV MEMORANDUM OF UNDERSTANDING<sup>3</sup>

[\*\* This sample document demonstrates the Memorandum of Understanding requirements for the administration of Stability Vouchers. Unless otherwise noted, all elements are required. \*\*]

### Memorandum of Understanding – Stability Vouchers

This Memorandum of Understanding (MOU) has been created and entered on **[Insert execution date]** by **[insert PHA name and address]** and **[insert CoC/VSP name and address]**.

#### I. Introduction and Goals

The **[insert PHA name]** and **[insert CoC/VSP name]** through the Stability Voucher (SV) Program seek to prevent and end homelessness among individuals and families who are experiencing or at-risk of homelessness, those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, and human trafficking, and veterans and families that include a veteran family member that meets one of the proceeding criteria.

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act), makes available \$43,343,000 for new incremental voucher assistance under Section 8(o) of the United States Housing Act of 1937 for use by individuals and families experiencing or at-risk of homelessness; those fleeing or attempting to flee domestic violence, dating violence, sexual assault, and stalking; and veterans and families that include a veteran family member that meets one of the proceeding criteria.

The Further Consolidated Appropriations Act, 2022 (Public Law 117-103 (2022 Act) further provides that HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs.

This Memorandum of Understanding (MOU) outlines the collaboration and commitment between **[insert PHA name]** and **[insert CoC/VSP name]** to pair Stability Vouchers with CoC-funded supportive services; and to collaborate with the CoC/VSP and other stakeholders to develop a prioritization plan for these vouchers.

#### Lead Agency Liaisons:

Name and title of PHA staff position:

Name and title CoC and/or VSP staff position:

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<sup>3</sup> If PHA policy in Section 19-VI.B. of this administrative plan states that a copy of the MOU will be attached at the end of this chapter as Exhibit 19-3, you may either fill in the language shown here or replace the text with the PHA's own MOU, then delete the word *sample*. If the PHA does not wish to attach its own MOU to the chapter, this statement should be removed from the policy in Section 19-VI.B.

## **II. Individuals and Families Eligibility under the Qualifying Categories**

In order to be eligible for an SV, an individual or family must meet one of four eligibility categories:

- Homeless
- At risk of homelessness
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Veterans

## **III. SV Roles and Responsibilities**

### **A. PHA Roles and Responsibilities [\*\*The following responsibilities are listed for example purposes. \*\*]**

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the SV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.
5. Designate a staff to serve as the lead SV liaison.
6. Comply with the provisions of this MOU.

### **B. CoC Roles and Responsibilities [\*\*The following responsibilities are listed for example purposes. \*\*]**

1. Designate and maintain a lead SV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e., self-certifications, birth certificate, social security card, etc.).
4. Attend SV participant briefings when needed.

5. Assess all households referred for SV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to SV families. (While SV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

#### **IV. CoC-funded supportive services that will be paired with SVs**

CoCs are encouraged to outline any existing partnerships with health and behavioral health care providers and agencies, state Medicaid agencies and agencies and organizations that may be leveraged to provide ongoing tenancy and wrap-around supportive services for those that may benefit from such services to maintain housing stability. All services provided by the CoC must be outlined in the MOU with the CoC and should demonstrate the community's strategy to coordinate assistance through available resources. HUD recommends that PHAs and partnering CoCs seek a diverse range of supportive services by partnering with organizations trusted by people experiencing homelessness.

#### **V. PHA Adopted Waivers and Alternative Requirements**

Notice PIH 2022-24 provides **[insert PHA name]** with authority to adopt certain statutory and regulatory requirements and alternative requirements for Stability Vouchers. **[insert PHA name]** and **[insert CoC/VSP name]** have agreed to adopt the following waivers and alternative requirements:

***[List all waivers and alternative requirements discussed, agreed upon by the PHA and CoC for the administration of SVs]***

#### **VI. PHA Permissive Prohibition Policies agreed upon by the PHA and CoC**

**[Insert PHA name]** in consultation with **[insert CoC/VSP name]** have agreed to adopt the following permissive prohibitions for the Stability Voucher program:

***[List any permissive prohibition policies agreed upon by the PHA and CoC]***

**VII. Program Evaluation**

**[Insert PHA name]** and **[insert CoC /VSP]** agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor.

Signed By:

\_\_\_\_\_  
Public Housing Agency Executive Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
CoC/VSP Executive Director

\_\_\_\_\_  
Date

## CHAPTER 20

### PROGRAM ADMINISTRATION RELATED TO VIOLENCE AGAINST WOMEN ACT OF 2013 (VAWA)

#### 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.”

#### **20-1A 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.

## **20-1B 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.

## **20-1C 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.

## **20-2A 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.

## **20-2B 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)].

## **20-2C 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.

## **20-2D 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.

## **20-2E 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)].

## **20-3A VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **20-3B 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

## **20-3C 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.

## **20-3D 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.

## **20-3F 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.

## **20-3G 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.

### **20-3H 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, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

### **20-3I 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.

### **20-3J. 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 20-1: 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<sup>1</sup>**

**To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> 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.”

**20-3K 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.

**20-3L 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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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate 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.

## **20-3M 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.

## **20-3N Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- 1. You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- 2. You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form or may accept another written or oral request.
- 3. You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

OR

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault

occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

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.

## **20-30 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.

## **20-3P 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.

## **20-4A 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.

### **20-4B 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.

### **20-4C 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 20-2: 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, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to 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):

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This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual 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 20-3: 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, and stalking.

**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:

- o The duration of the risk.
- o The nature and severity of the potential harm.
- o The likelihood that the potential harm will occur; and
- o 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](http://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 20904  
Detroit, MI 48220

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](http://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](mailto:providenceprograms@gmail.com)

Website: [www.providencefamilylifecenter.com](http://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](http://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 U.S. Department of Housing  
REQUEST FOR CERTAIN and Urban Development  
VICTIMS OF DOMESTIC  
VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING**

OMB Approval No. 2577-0286  
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**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault, or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

**The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.**

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer, you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current 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



## CHAPTER 21

### 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.

#### **21-1A. 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

#### **21-1B. 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 other media. 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.

## 21-1C. 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.

## 21-1D. 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:

| <b>Supportive Service Need</b> | <b>Examples</b>                                                                                                                     |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 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, and treatment<br>Domestic violence prevention and intervention        |
| Homeownership                  | Credit counseling<br>home buying process<br>Down payment assistance                                                                 |

## **21-1E. 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.

## **21-1F. 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.

## **21-1G. 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.

### **21-2A 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 and 21 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.



## ADMISSIONS & CONTINUED OCCUPANCY POLICY (ACOP)



# Admissions and Continued Occupancy Policy



Detroit Housing Commission  
1301 E. Jefferson Ave  
Detroit, MI 48207  
(313) 877-8000  
TTY/TDD: (800) 222- 3679

Effective 7/1/2024

Approved by the PHA Board of Commissioners:  
Resolution #

**NOTE: Any HUD regulations, Interim Rules, Final Rules, PIH Notices, etc., published and implemented by HUD prior and/or subsequent to adoption of this Admissions and Continued Occupancy Policy (“ACOP”) that conflict with this ACOP will supersede what is noted in the ACOP, and will be enforced accordingly.**

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## **CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN**

### **INTRODUCTION**

The Detroit Housing Commission (DHC) receives operating subsidy for its public housing program from the United States Department of Housing and Urban Development (HUD). DHC is not a federal department or agency. DHC is a public body corporate authorized by Public Act 18 of 1933 (Act 18) to develop and operate housing and housing programs for low-income families in the State of Michigan. The City of Detroit created DHC as it was authorized to do under Act 18. DHC enters into an Annual Contributions Contract (ACC) with HUD to administer a public housing program. DHC must ensure compliance with federal requirements by establishing policies and procedures to clarify federal requirements and to ensure consistency in its public housing program operation. There are three parts to this chapter:

Part I: The Detroit Housing Commission. This part includes a description of DHC, its jurisdiction, its programs, and its mission and intent.

Part II: DHC's Public Housing Program. This part contains information about public housing operation, roles and responsibilities, and partnerships.

Part III: DHC's Admissions and Continued Occupancy (ACOP). This part discusses the purpose and organization of the ACOP and its revision requirements.

### **PART I: THE DETROIT HOUSING COMMISSION**

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

This part describes DHC's creation and authorization, the general structure of the organization, and the relationship between DHC's Board and staff.

## **1-I.B. ORGANIZATION AND STRUCTURE OF DHC**

DHC's Low-Income Public Housing Program (LIPH) is funded by the federal government and administered by DHC. The Public Housing units in DHC's portfolio are located in the City of Detroit, Michigan.

DHC is governed by a Board of Commissioners. This document will refer to the "Board" when discussing the Board of Commissioners.

Members of the Board who are appointed in accordance with the Michigan Housing Facilities Act (Act 18) and serve in the same function as the directors of a corporation. The Board establishes policies under which DHC conducts business and oversees the implementation of those policies through the appointment and oversight of an Executive Director. The Board is responsible for preserving and expanding DHC's resources and assuring its continued viability and success.

Formal actions of DHC are taken through written resolutions, adopted by the Board and entered into DHC's official records. The principal staff member of DHC is the Executive Director (ED), who is selected and hired by the Board. The ED oversees the day-to-day operations of DHC and is directly responsible for carrying out the policies established by the Board. The ED's duties include hiring, training, and supervising DHC's staff, as well as budgeting and financial planning. Additionally, the ED is charged with ensuring compliance with federal and state laws, and program mandates.

## **1-I.C. DHC MISSION**

### **DHC Mission Statement**

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

### **DHC's Vision**

Develop and Maintain Community Partnerships

Promote High Quality Customer Service

Sustain Sound Fiscal Management

Ensure Operational Sustainability

### **1-I.D. DHC's COMMITMENT TO ETHICS AND SERVICE**

As a public body corporate, DHC is committed to providing excellent service to all public housing applicants, residents, and the public. In order to provide superior service, DHC resolves to:

Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.

Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—in compliance with the National Standards for the Physical Inspection of Real Estate: Inspection Standards (NSPIRE)-- for very low- and low-income families.

Achieve a healthy mix of incomes in its public housing developments by attracting and retaining higher income families and by working toward de-concentration of poverty goals.

Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational and other human service needs. Promote fair housing and the opportunity for very low- and low-income families of all races, ethnicities, national origins, religions, ethnic backgrounds, and with all types of disabilities, to participate in the public housing program and its services.

Create positive public awareness and expand the level of family and community support in accomplishing DHC's mission.

Attain and maintain high of standards and professionalism in day-to-day management of all program components. Administer an efficient, high-performing agency through continuous improvement of DHC's support systems and commitment to our employees and their development.

DHC will make every effort to keep residents informed of program rules and regulations and to advise them how the program rules affect them.

## **PART II: THE PUBLIC HOUSING PROGRAM**

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

The intent of this section is to provide the public and staff an overview of the history and operation of public housing.

The United States Housing Act of 1937 (the “Act”) is responsible for the birth of federal housing program initiatives, known as public housing. The Act was intended to provide financial assistance to states and cities for public works projects, slum clearance and the development of affordable housing for low-income residents. There have been many changes to the program since its inception in 1937.

The United States Housing Act of 1965 established the availability of federal assistance, administered through local public agencies, to provide rehabilitation grants for home repairs and rehabilitation. This act also created the federal Department of Housing and Urban Development (HUD).

The United States Housing Act of 1969 created an operating subsidy for the public housing program for the first time. Until that time, public housing was a self-sustaining program.

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act or United States Housing Act of 1998 – was signed into law. Its purpose was to provide more private sector management guidelines to the public housing program and provide residents with greater choices. It also allowed PHAs more remedies to replace or revitalize severely distressed public housing developments. Highlights of QHWRA include: the establishment of flat rents; the requirement for PHAs to develop five-year and annual plans; income targeting, a requirement that 40% of all new admissions in public housing during any given fiscal year be reserved for extremely low-income families; and resident self-sufficiency incentives.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and assets in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

## **1-II.B. PUBLIC HOUSING PROGRAM BASICS**

HUD writes and publishes regulations to implement public housing laws enacted by Congress. HUD contracts with DHC via the ACC to administer programs in accordance with HUD regulations and provides an operating subsidy to DHC. DHC must create written policies that are consistent with HUD regulations. Among these policies is DHC's Admissions and Continued Occupancy Policy (ACOP). The ACOP must be approved by DHC's Board. The job of DHC, pursuant to HUD regulations, is to provide safe, habitable dwelling units to low-income families at an affordable rent. DHC screens applicants for public housing and, if they are found eligible and accepted, DHC offers the applicant a unit. If the applicant accepts the offer, DHC will enter into a contract with the applicant known as the lease. At this point, the applicant becomes a resident of the public housing program.

In the context of the public housing program, a tenant is defined as the adult person(s), other than a live-in aide, who (1) executed the lease with DHC as lessee of the dwelling unit, or, if no such person now resides in the unit, (2) who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit. The Public Housing Occupancy Guidebook refers to tenants as "residents." The terms "tenant" and "resident" are used interchangeably in this policy. Additionally, this policy uses the term "family" or "families" for residents or applicants, depending on context.

Since DHC owns the public housing development, DHC is the landlord. DHC must comply with all of the legal and management responsibilities of a landlord in addition to administering the program in accordance with HUD regulations and DHC's policies.

## **1-II.C. PUBLIC HOUSING PARTNERSHIPS**

Relationships between the important parties are defined by federal regulations and by contract. To administer the public housing program, DHC enters into a contractual relationship with HUD through the ACC. DHC also enters into a contractual relationship with the resident through the public housing lease. These contracts outline the roles and responsibilities of each party.

Federal regulations further identify the important roles of the parties involved. For the program to work and be successful, all parties involved, HUD, DHC, and the resident, must play their important parts.

### **What does HUD do?**

Federal law is the source of HUD responsibilities. HUD has the following major responsibilities:

Develop regulations, requirements, handbooks, notices and other guidance to implement housing legislation passed by Congress

Allocate operating subsidies to DHC

Allocate capital funding to DHC

Provide technical assistance to DHC on interpreting and applying program requirements

Monitor DHC compliance with program requirements and DHC performance in program administration.

### **What does DHC do?**

DHC's responsibilities originate in federal regulations and the ACC. DHC owns and manages public housing developments, administers the program under contract with HUD and has the following major responsibilities:

1. Establish local policies
2. Review applications from interested applicant families to determine whether applicants are eligible for the program
3. Maintain waiting list and select families for admission
4. Maintain housing units by making any necessary repairs in a timely manner
5. Screen families who apply for tenancy, to determine if they will be good renters
6. Offer units to families (minimize vacancies without overcrowding)
7. Maintain properties to the standard of safe, habitable dwelling units (including assuring compliance with National Standards for the Physical Inspection of Real Estate)
8. Make sure DHC has adequate financial resources to maintain its housing stock
9. Ensure that families continue to qualify under the program
10. Collect rent due from the assisted family and comply with and enforce provisions of the lease
11. Ensure that families comply with program rules
12. Provide families with prompt and professional service
13. Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, HUD-approved applications for funding, DHC's ACOP, and other applicable federal, state and local laws.

### **What does the Resident do?**

The resident's responsibilities are articulated in the public housing lease. The resident has the following broad responsibilities: Comply with the terms of the lease

Provide DHC with complete and accurate information, determined by DHC to be necessary for administration of the 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 NSPIRE caused by the family

Not engage in drug-related or violent criminal activity

Notify DHC before moving or termination of the lease

Use the assisted unit only for residence and as the sole residence of the family.

Not sublet the unit or assign the lease

Promptly notify DHC of any changes in family composition

Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

If all parties fulfill their obligations in a professional and timely manner, the program responsibilities will be fulfilled in an effective manner.

#### **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

24 CFR Part 5: General Program Requirements

24 CFR Part 8: Nondiscrimination

24 CFR Part 902: Public Housing Assessment System

24 CFR Part 903: Public Housing Agency Plans

24 CFR Part 945: Designated Housing

24 CFR Part 960: Admission and Occupancy Policies

24 CFR Part 965: PHA-Owned or Leased Projects – General Provisions

24 CFR Part 966: Lease and Grievance Procedures



## **PART III: THE ADMISSIONS AND CONTINUED OCCUPANCY POLICIES (ACOP)**

### **1-III.A. OVERVIEW AND PURPOSE OF THE POLICY**

The ACOP is DHC's written statement of policies used to carry out the public housing program in accordance with federal law and regulations, and HUD requirements. The ACOP is required by HUD and it must be available for public review. The ACOP also contains policies that support the objectives contained in DHC's Annual Plan.

All issues related to public housing not addressed in this ACOP are governed by federal regulations, HUD handbooks and guidebooks, notices and applicable state and local laws. The policies in this ACOP have been designed to ensure compliance with the consolidated ACC and all HUD-approved applications for program funding. DHC is responsible for complying with all changes in HUD regulations pertaining to public housing. If such changes conflict with this ACOP, HUD regulations will have precedence.

### **1-III.B. CONTENTS OF THE POLICY**

HUD regulations for public housing do not contain a list of what must be included in the ACOP. However, individual regulations contain requirements of inclusion in DHC's written policy. At a minimum, the ACOP should cover DHC policies on these subjects:

The organization of the waiting list and how families are selected and offered available units, including any DHC admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening DHC's waiting list (Chapters 4 and 5)

Transfer policies and the circumstances under which a transfer would take precedence over an admission (Chapter 12)

Standards for determining eligibility, suitability for tenancy, and the size and type of the unit needed (Chapters 3 and 5)

Procedures for verifying the information the family has provided (Chapter 7)

The method for achieving de-concentration of poverty and income-mixing of public housing

developments (Chapter 4)

Grievance procedures (Chapter 14)

Policies concerning payment by a family to DHC of amounts the family owes DHC (Chapter 15 and 16)

Interim redeterminations of family income and composition (Chapter 9)

Policies regarding community service requirements; (Chapter 11)

Polices and rules about safety and ownership of pets in public housing (Chapter 10).

Mandatory vs. Discretionary Policy

HUD makes a distinction between mandatory policies and non-mandatory policies:

- Mandatory policies: those driven by legislation, regulations, current handbooks, current PIH notices, and legal opinions from the Office of General Counsel
- Optional, non-binding guidance: includes guidebooks, FAQs, PIH notices that have expired, and recommendations from individual HUD staff.

HUD expects PHAs to develop policies and procedures that are consistent with mandatory policies and to make clear the optional policies the PHA has adopted. The ACOP is comprised of mandatory policies and optional PHA policy. HUD emphasizes the need for a clearly written and comprehensive ACOP to guide staff in the clear and consistent application of policy.

HUD suggestions, recommendations, written issuances, and guidance are consistent with mandatory federal policy. Therefore, using HUD guidance in the preparation of PHA policy, even though it is not mandatory, provides a PHA with a “safe harbor.” If a PHA adopts an alternative policy, it must make its own determination that such policy is consistent with legislation, regulations, and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than that suggested by HUD, but PHAs should carefully think through those decisions and be able to articulate how their policy is consistent with federal laws, regulations and mandatory policy.

### **1-III.C. UPDATING AND REVISING THE ACOP**

DHC will revise this ACOP as needed to maintain regulatory compliance and to reflect changes in DHC’s operations or when needed to ensure staff consistency in operation. This ACOP and any changes must be approved by DHC’s Board. The pertinent sections of the ACOP must be included in the Annual Plan.

## **CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY**

### **INTRODUCTION**

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

This chapter describes DHC policies related to these topics in three parts:

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

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

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details DHC's obligations to ensure meaningful access to the public housing program and its activities by persons with limited English proficiency (LEP).

### **PART I: NONDISCRIMINATION**

#### **2-I.A. OVERVIEW**

Federal laws require DHC to treat all applicants and resident families equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, disability, marital status, gender identity, and sexual orientation.

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

1. Title VI of the Civil Rights Act of 1964
2. 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)
3. Executive Order 11063
4. Section 504 of the Rehabilitation Act of 1973 The Age Discrimination Act of 1975
5. Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
6. The Violence Against Women Act (VAWA)
7. 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 and further clarified in Notice PIH 2014-20
8. Any applicable state laws or local ordinances and any legislation protecting individual rights of residents, applicants, or staff that may subsequently be enacted
9. When more than one civil rights law applies to a situation, the laws will be read and applied together.

## **2-I.B. NON-DISCRIMINATION**

Federal regulations prohibit discrimination against certain protected classes. State and local requirements can prohibit discrimination against additional classes of people. DHC shall not discriminate in the provision of public housing based on race, color, sex, religion, familial status, age, disability or national origin related to any housing covered by an ACC that is under DHC's jurisdiction.

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 eighteen (18).

DHC will not discriminate on the basis of marital status, gender identity, or sexual orientation

Fair Housing posters and housing information will be displayed in locations throughout DHC's offices.

DHC shall not automatically deny admission to a particular group or category of otherwise qualified applicants who are members of a protected class.

DHC will not use any of these factors to:

1. Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the public housing program
2. Provide housing that is different from that provided to others
3. Subject anyone to segregation or disparate treatment
4. Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
5. Treat a person differently in determining eligibility or other requirements for admission
6. Steer an applicant or resident toward or away from a particular area
7. Deny anyone access to the same level of services
8. Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
9. Discriminate in the provision of residential real estate transactions

DHC will not:

10. Discriminate against someone because, they are related to or associated with a member of a protected class
11. 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

## **Providing Information to Families**

DHC will take steps to ensure that families are fully aware of applicable civil rights laws. As part of the public housing orientation process, DHC will provide information to public housing applicant families about civil rights requirements.

## **Discrimination Complaints**

Applicants or resident families 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.

In all cases, DHC may advise the family to file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act. Upon receipt of a housing discrimination complaint, DHC is required to:

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

## **Complaints under the Equal Access Final Rule (Notice PIH 2014-20)**

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed on these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify DHC either orally or in writing.

Within 10 business days of receiving the complaint, DHC will provide a written notice to those alleged to have violated the rule. DHC will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

DHC will attempt to remedy discrimination complaints made against DHC and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of DHC 's investigation, DHC will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted. DHC will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

### **VAWA Complaint Processing**

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

Applicants or tenant families who wish to file a VAWA complaint against DHC may notify DHC either orally or in writing.

DHC will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). DHC will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

DHC will attempt to remedy complaints made against DHC and will conduct an investigation into all allegations of discrimination.

DHC will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

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

### **2-II.A. OVERVIEW**

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

DHC must ensure that persons with disabilities have full access to DHC's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the public housing program.

DHC will ask all applicants and resident families if they require any type of accommodations, in writing, during the application process, during the reexamination process, and on notices of adverse action by DHC.

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

A "reasonable accommodation" is a change, exception, or adjustment to a policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since policies and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them an equal opportunity to use and enjoy a dwelling.

Federal regulations stipulate that requests 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.



## **Types of Reasonable Accommodations**

When it is reasonable (see definition above and Section 2-II.E), DHC shall accommodate the needs of a person with disabilities. Examples include but are not limited to:

Permitting applications and reexaminations to be completed by mail

Conducting home visits

Modifying or altering a unit or physical system if such a modification or alteration is necessary to provide equal access to a person with a disability

Installing a ramp into a dwelling or building

Installing grab bars in a bathroom

Installing visual fire alarms for hearing impaired persons

Allowing a DHC-approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not be otherwise living in the unit.

Providing a designated handicapped-accessible parking space

Allowing a service or an assistance animal

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.

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

If an applicant or resident indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that DHC treat the information as a request for a reasonable accommodation, even if no formal request

is made. The family must explain what type of 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.

DHC will encourage the family to make its request in writing using the reasonable accommodation request form provided by DHC. However, any time the family indicates that an accommodation is needed, DHC will consider the accommodation whether or not a formal written request is submitted.

DHC's Reasonable Accommodations Policy is listed in the Supplemental Policies to this ACOP.

## **2-II.D. 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 enhance the family's 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 will be required. If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to DHC, DHC must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

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

Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer

support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.

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

Medical records will not be accepted or retained in the resident's file.

In the event that DHC does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, DHC will dispose of it. In place of the information, DHC will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

## **2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION**

DHC must approve a request for an accommodation if, the following three conditions are met.

1. The request was made by or on behalf of a person with a disability.
2. There is a disability-related need for the accommodation.
3. 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 operations.

Requests for accommodations must be assessed on a case-by-case basis. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the overall size of DHC's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

Before making a determination whether to approve the request, DHC may enter into discussion and negotiation with the family, request more information from the family, or

may require the family to sign a consent form so that DHC may verify the need for the requested accommodation.

After a request for an accommodation is presented, DHC will respond, in writing, within 30 business days.

If DHC denies a request for an accommodation because there is no relationship, or nexus found between the disability and the requested accommodation, the notice will inform the family of the right to appeal DHC's decision through an informal hearing, if applicable, or the grievance process (see Chapter 14).

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 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 public housing program and without imposing an undue financial and administrative burden.

If DHC believes that the family has 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. The notice will inform the family of the right to appeal DHC's decision through an informal hearing, if applicable, or the grievance process (see Chapter 14).

### **REASONABLE ACCOMMODATION (24 CFR §5.403) (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011)**

#### **Medical Marijuana Use as a Reasonable Accommodation**

Federal and state nondiscrimination laws do not permit housing authorities to accommodate requests by current or prospective residents with disabilities to use medical marijuana. DHC may not permit the use of medical marijuana as a reasonable accommodation because such accommodations are not reasonable under the Fair Housing Act and would constitute a fundamental alteration in the nature of the operations

of the program (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pgs1-2). Person(s) seeking a reasonable accommodation to allow the use of medical marijuana are not “individuals with a disability” under Section 504 or the ADA and therefore do not qualify for a reasonable accommodation to allow the use of medical marijuana. Furthermore, because such requests are tantamount to requests to become an illegal drug user, DHC is prohibited from granting such a request (HUD General Counsel Opinion on Medical Marijuana, 1/20/2011, pg 6).

## **2-II.F. 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 is available.

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

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

## **2-II.G. PHYSICAL ACCESSIBILITY**

DHC must comply with a variety of federal requirements pertaining to physical accessibility, including the following. Section 504 of the Rehabilitation Act of 1973

The Americans with Disabilities Act of 1990

The Architectural Barriers Act of 1968

The Fair Housing Act of 1988

DHC’s policies concerning physical accessibility are readily available to applicants and

resident families. They can be found in three key documents.

The ACOP describes the key policies that govern DHC's responsibilities with regard to physical accessibility.

HUD PIH Notice 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs

The Annual Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of DHC facilities will conform to the Uniform Federal Accessibility Standards (UFAS).

Newly-constructed facilities will be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities will be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the public housing program.

## **2-II.H. 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.

When applicants with disabilities are denied assistance, the notice of denial will inform them of their right to request an informal hearing.

When a family's lease is terminated, the notice of termination will inform the family of their right to request a hearing in accordance with DHC's grievance process.

When reviewing a reasonable accommodation request, DHC must consider whether a reasonable accommodation will allow the family to 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 must make the accommodation. In addition, DHC will provide a reasonable accommodation for persons with disabilities to participate

in the hearing process.

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

### **2-III.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 (LEP) persons.

LEP persons are defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English. For the purposes of this ACOP, LEP persons are public housing applicants and resident families, and parents and family members of applicants and resident families.

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

### **2-III.B. ORAL INTERPRETATION**

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, DHC will take reasonable steps to offer, or ensure that the family is offered through other sources, competent interpretation services free of charge to the LEP person. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits. 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. The interpreter may be a family member or friend.

### **2-III.C. WRITTEN TRANSLATION**

In order to comply with written-translation obligations, DHC will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, DHC may not translate vital written materials, but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials.

### **2-III.D. IMPLEMENTATION PLAN**

After completing the four-factor analysis and deciding what language assistance services are appropriate, DHC shall determine whether it is necessary to develop a written Language Assistance Plan (LAP) to address the identified needs of the LEP populations it serves.

If DHC determines that it is not necessary to develop a written LAP, the absence of a written LAP, it will nonetheless provide LEP services as necessary.

If DHC determines it is appropriate to develop a written LAP, the following three steps will be taken: (1) identifying language assistance measures; (2) training staff; and (3) monitoring and updating the LAP as needed.



## CHAPTER 3: ELIGIBILITY

### INTRODUCTION

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

To be eligible for the public housing program, the applicant family must:

Qualify as a family as defined by HUD and DHC.

Have income at or below HUD-specified income limits.

Qualify on the basis of citizenship or the eligible immigrant status of family members.

Provide social security number information for household members as required.

Consent to DHC's collection and use of family information as provided for in DHC-provided consent forms.

Not currently be receiving a duplicative subsidy.

Meet net asset and property ownership restriction requirements.

DHC must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or DHC.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains DHC's definition of family and household members and explains initial and ongoing eligibility issues related to these members.

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

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause DHC to deny admission as well as the

asset limitation for public housing.

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

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

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

### **3-I.B. FAMILY AND HOUSEHOLD**

The terms family and household have different meanings in the public housing program.

#### **Family**

To be eligible for admission, an applicant must qualify as a family. Family as defined by HUD, includes but is not limited to the following regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, displaced person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but, is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a resident family. A family may be a single person or a group of persons. Family includes a family with a child or children, two or more elderly or disabled persons living together, one

or more elderly or disabled persons living with one or more live-in aides, or a single person. DHC has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

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

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

Notwithstanding anything to the contrary, in order to qualify as a family in the context of a head of household with minors who are not the head of household's children, either:

(1) a court order establishing custody, or

(2) an affidavit from the parent, which establishes custody with the head of household, is required, or

(3) If the parent or legal guardian is deceased, their whereabouts are unknown, or they are unresponsive, the head of household must provide an affidavit declaring one of the foregoing and that the child(ren) is/are residing with him/her and also provide proof of kinship care by producing documents relating to school, TANF, Medicaid or medical records, or

(4) a notarized power of attorney specific to custody and that the child(ren) is/are residing with him/her and also provide proof of kinship care by producing documents relating to school, TANF, Medicaid or medical records.

A family does not include:

(1) a housekeeper or live-in aide, or

(2) foster children and/or foster adults.

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

## Household

“Household” is a broader term that includes additional people who, with DHC’s permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

### **3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF RESIDENT FAMILY**

#### **Family Breakup**

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 submit a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted. The family may request a change of head of household unless DHC determines, in its sole discretion that the requested change is for the purpose of the family obtaining a benefit by circumventing a limitation or requirement of the housing program, federal statute, regulation or other DHC policy.

If a court determines the disposition of property between members of the applicant or resident family, DHC will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, DHC will determine which family will retain their placement on the waiting list or continue in occupancy. As a general rule, the applicant listed as head of household on the original application will retain the original application date and time. Former family members listed as co-head or other adults will be required to make a new application with a new application date and time. In making its determination, DHC will take into consideration the following factors:

- (1) the interest of any minor children, including custody arrangements;
- (2) the interest of any ill, elderly, or disabled family members; (3) the interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with section 16-VII.D of this ACOP; (4) any possible risks

to family members as a result of criminal activity; (5) the original wait list applicant; and (6) the recommendations of social service professionals.

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

The HUD definition of family includes the remaining member of a resident family, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH Occ GB, p. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

### **3-I.D. 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, alone or in conjunction with a co-head or spouse.

The family may designate any qualified family member as the head of household. Changes to the head of household will be permitted once between annual reexaminations. Exceptions to this policy must be approved by the Director of Real Estate Management or designee.

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.

### **3-I.E. SPOUSE, CO-HEAD, AND OTHER ADULT**

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

“Spouse” means the marriage partner of the head of household.

A “marriage partner” includes the partner in a “common law” marriage as defined in state law. Michigan law does not recognize common law marriages. DHC, however, will

recognize common law marriages based on the laws of another state if the couple qualifies under the laws of states that recognize common law marriage.

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

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

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 cohead, who is 18 or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

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

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

A *dependent* is a family member who is under 18 or a person of any age who is a person with a disability or a full-time student, except that the head of household, spouse, co-head, foster children/adults and live-in aides can never be dependents. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 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 resident family 50 percent or more of the time.

When more than one applicant or assisted family, regardless of program, are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a

dispute about which family should claim them, DHC will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

### **3-I.G. 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.

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

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

**[24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]**

#### **Elderly Persons**

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

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

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

#### **Elderly Family**

An elderly family is one in which the head of household, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

### **3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY**

**[24 CFR 5.403, FR Notice 02/03/12]**

#### **Persons with Disabilities**

Under DHC's public housing program, special rules apply to persons with disabilities and

to any family whose head of household, spouse, or co-head is a person with disabilities. As discussed in Chapter 2, DHC must make all aspects of the public housing program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

### **Disabled Family**

A disabled family is one in which the head of household, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

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 admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

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

A guest is defined as a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

The lease must provide that the resident has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near DHC premises [24 CFR 966.4(f)].

A resident family must notify DHC when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 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.

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

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

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

A *Foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction..

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

A foster child is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. DHC will require the applicant or tenant family to provide documentation to support such arrangement in their household.

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

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

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

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

#### **Definitions of Temporarily and Permanently Absent**

Generally, an individual who is or is expected to be absent from the public housing unit for ninety (90) consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the public housing unit for more than ninety (90) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **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. This applies at time of initial application as well. To be considered a family member, the individual attending school must be enrolled in an accredited two or four-year college or training institution and the student will reside in the unit during holidays and summer breaks.

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

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

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

occupancy standards, the temporarily absent child will be counted as a family member.

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

An employed head of household, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

### **Individuals Confined for Medical Reasons**

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question about the status of a family member, 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 that the family member is confined on a permanent basis and request that the person not be considered a family member.

### **Return of Permanently Absent Family Members**

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

### **3-I.M. 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 [24 CFR 5.403].

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

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. 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 resident family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. For continued approval, the family must submit a new, written request, subject to DHC verification, at each annual reexamination. At the annual reexamination, the head of household requiring the live-in aide as well as the live-in aide must sign the live-in aide addendum to the lease and the live-in aide contact form.

In addition to the live-in aide addendum to the lease, 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, and (2) would not be living in the unit except to provide the necessary supportive services.

DHC has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

- (1) The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- (2) The person has a history of drug-related criminal activity or violent criminal activity; or
- (3) The person currently owes rent or other amounts to DHC or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

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

### **3-I.N. 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

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assault and stalking.

## **PART II: BASIC ELIGIBILITY CRITERIA**

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

#### **Income Limits**

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county.

#### **Types of Low-Income Families [24 CFR 5.603(b)]**

Low-income family: A family whose annual income does not exceed eighty percent (80%) 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: Very low-income families whose incomes do not exceed the higher of the Federal poverty level or 30 percent of Area Median Income.

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

#### **Using Income Limits for Eligibility [24 CFR 960.201 and Notice PIH 2023-27]**

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, the annual income of an applicant must be within the low-income limit. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

## **Using Income Limits for Targeting [24 CFR 960.202(b)]**

At least 40 percent of the families admitted to DHC's public housing program during a DHC fiscal year from DHC's waiting lists must be extremely low-income families. This is called the "basic targeting requirement."

If admissions of extremely low-income families to DHC's housing choice voucher program during a DHC fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against DHC's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

1. Ten percent of public housing waiting list admissions during the DHC fiscal year
2. Ten percent of waiting list admission to DHC's housing choice voucher program during DHC's fiscal year
3. The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in resident selection, see Chapter 4.

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

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

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

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

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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-citizens the declaration must 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 must identify in writing any family members who elect not to contend their immigration status. No declaration is required for live-in aides, foster children, or foster adults.

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

In general, citizens and nationals are required to submit only a signed declaration that claims their status. Family members who declare citizenship or national status will not be required to provide additional documentation unless, DHC receives information indicating that an individual's declaration may not be accurate. However, DHC may request additional documentation of status, such as a passport.

### **Eligible Non-citizens**

In addition to providing a signed declaration, those declaring eligible non-citizen status must sign a verification consent form and cooperate with DHC's 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 residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS.

## **Ineligible Non-citizens**

Those non-citizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family members list, 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 [24 CFR 5.522]. 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.

## **Mixed Families**

A family is eligible for admission 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 14 for a discussion of informal hearing procedures.

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

DHC may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by DHC that the individual or at least one family member is eligible [24 CFR 5.512(a)]

DHC will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible non-citizen.

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 10 business days of the determination.

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

Informal hearing procedures are contained in Chapter 14.

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

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

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

If an individual qualifies for a time extension for the submission of required documents, DHC must 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-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10, HUD Streamlining Rule 3/8/2016]**

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to non-citizens who do not contend eligible immigration status.

In addition, each resident who has not previously disclosed a SSN has previously disclosed a SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit. DHC must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

If the provided documentation is not acceptable evidence of the social security number, DHC will explain to the applicant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHC within (30) thirty calendar days. The explanation and request will be documented in the applicant file. If the applicant family is otherwise eligible to participate in the program, the family will maintain its position on the waiting list for this thirty (30) calendar day period. If all household members have not disclosed their SSN at the time a unit becomes available, the available unit will be offered to the next eligible applicant family on the waiting list.

If the family is unable to comply with the requirements, ***due to circumstances that could not have reasonably been foreseen and were outside the control of the family***, DHC will grant one additional 90-day extension if needed for reasons beyond the applicant family's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family or other emergency.

### **3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]**

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information

Privacy Act Notice, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent form remains effective until the family is denied assistance, assistance is terminated, or the family

provides written notification to revoke consent.

DHC must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow DHC to obtain information that DHC has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

DHC has established a policy that the family's revocation of consent to allow the PHA to access records from financial institutions will result in denial of admission.

### **3-II.E. 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 tenancy.

### **3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]**

#### **Existing Tenant Search**

Prior to admission to the program, the PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA

matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance. If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

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

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

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module. If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

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

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

### **Income and Income Validation Tool (IVT) Reports**

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

## **PART III: DENIAL OF ADMISSION**

### **3-III.A. OVERVIEW (SCREENING FOR ELIGIBILITY AND DENIAL OF ASSISTANCE)**

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission. In addition, HUD requires or permits DHC to deny admission based on certain types of current or past behaviors of family members as discussed in this part. DHC's authority in this area is limited by the Violence against Women Act (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking [24 CFR 5.2005].

This part covers the following topics:

1. Required denial of admission
2. The asset limitation in public housing
3. Other permitted reasons for denial of admission
4. Screening
5. Criteria for deciding to deny admission
6. Prohibition against denial of admission to victims of domestic violence, dating violence,
7. sexual assault, stalking, or human trafficking
8. Notice of eligibility or denial

DHC's developments will not be used as housing of last resort. All applicants for Public Housing will be screened according to the basic policies and standards set forth in DHC's Admission and Continued Occupancy Policy (ACOP).

### **GENERAL PRINCIPLES OF SCREENING**

The screening criteria in the Admissions and Continued Occupancy Policy are based on those set forth in the HUD Regulations [24 CFR Part 960.205] and in the applicable sections of the Quality Housing and Work Responsibility Act of 1998 (QHWRA). The regulations require an assessment of the behavior of each applicant with respect to the essential obligations of tenancy as expressed in the PHA's lease. The essential obligations of tenancy may be summarized as follows:

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1. To pay rent and other charges under the lease in the manner set forth by the PHA in the lease.
2. To care for and avoid damaging the unit and common areas, to use facilities and equipment in a reasonable way; not to create or maintain health, safety or sanitary hazards and to promptly report maintenance needs.
3. Not to interfere with the rights and enjoyment of others and not to damage the property of others.
4. Not to engage in criminal activity that threatens the health, safety or right to peaceful
5. enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the premises.
6. To comply with necessary and reasonable rules and program requirements of HUD and DHC.
7. To comply with health and safety codes.

### **3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]**

DHC is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or, if DHC has reasonable cause to believe that a 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.

### **Screening for Criminal Record**

Where the statute requires that the DHC prohibit admission for a prescribed period of time after some disqualifying behavior or event, the DHC may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

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
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will be conducted at the time of final eligibility determination.

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**

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) *"Recently enough"*, is defined as, any use of illegal drugs during the previous six (6) 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.



(4) Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing. For the purposes of this document, federally assisted housing is defined as any housing in which a resident's housing is subsidized or the housing provider receives subsidy, either directly or indirectly, from a federal agency or federal housing program (including, but not limited to Public Housing, the Housing Choice Voucher program, Project Based Rental Assistance, and others).

- a. If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine, the family will be denied admission.
- b. If any household member has been evicted from federally assisted housing for drug-related criminal activity during the previous three (3) years, the family will be denied admission, except if one of the following occurred:
  - i. The circumstances leading to the eviction no longer exist.
  - ii. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program.

(5) If any household member is subject to a lifetime registration requirement under a State sex offender registration program.

If any household member is currently registered as a lifetime sex offender under any State registration requirement, the family will be denied admission. PIH 2012-28, HUD regulations at 24 CFR § 5.856, § 960.204(a)(4), and § 982.553(a)(2)

### **Other Criminal Records**

Except as mandated by federal law, no applicant for the LIPH program will be automatically barred from receiving housing assistance because of his or her criminal background.

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.

## **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. See 3III.B. 2(a) and 2(b) regarding the definition of "currently engaged".

### **3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]**

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under [24 CFR 982.620](#) or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

DHC defines *not sufficient for the size of the family* as being overcrowded based on DHC's occupancy standards in Chapter 5.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the State or local laws of the jurisdiction where the property is located.

### **3-III.D. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION**

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

#### **Preliminary Eligibility Criteria**

All site-based preliminary waitlist applications submitted and accepted through DHC's Application Portal will be reviewed to determine if the applicant family meets the minimum

eligibility requirement to remain on the waitlist. If an applicant is found to be preliminarily ineligible, their application will not be added to the program's waiting list. Background screening will be conducted and reviewed at the time of final determination and eligibility.

### **Screening for Eligibility**

DHC is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the DHC in complying with HUD requirements and DHC's policies is to deny assistance to applicants who are currently engaging in or, have engaged in, certain criminal activities. In order to obtain access to the records, DHC must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903]. DHC may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

DHC is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)]. If DHC proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the DHC must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

DHC does not obtain criminal conviction records directly from law enforcement agencies at the time of admission. DHC complies with 24 CFR 5.903(f) and 5.905(d) in the following manner:

- (1) DHC will require each household member age 18 and older to sign a consent form allowing DHC to request the criminal history report.
- (2) Once the consent form is signed, DHC will request the criminal history report from its third-party vendor or other government agency.
- (3) Upon review of the report, if there is information on the report that may be grounds for

a denial, DHC will share the information with the applicant and provide an opportunity for the family to dispute the accuracy of the information or provide additional relevant information.

(4) After review of the report and any information provided by the family, DHC will determine if a denial is applicable. If a denial is warranted, a written notice of denial will be given to the family if they are present or mailed to the family if not present. The notice will provide the detailed summary of the criminal history that caused the proposed denial. Additionally, the denial notice will advise the applicant of the right to request an informal hearing to dispute the accuracy of the data and the basis for the denial. The request must be made in writing within 15 calendar days of the date of the denial notice.

(5) If the family fails to request an informal hearing within 15 calendar days of the date of the official denial letter, the denial shall become final.

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 resident).

**The following criteria shall be used to determine ineligibility:**

1. DHC shall prohibit admission to the public housing program of an applicant for five (5) years from the date of eviction or termination, if a household or family member has been evicted or terminated from federally assisted housing for drug-related criminal activity.
2. If the household or family vacated in lieu of eviction from a DHC property, due to a household or family member engaging in drug-related criminal activity within five (5) years from the date of application.
3. Subject to the review of DHC's Chart of Offenses Criminal Background Screening Criteria, DHC may prohibit the admission to the public housing program for the following:
  - a. DHC has documentation confirming the household or family member engaged in the drug-related criminal **and**
  - b. DHC has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30-day notice or termination lease letter, issuance of a notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a

- forcible detainer lawsuit against the family and / or other records); **and**
- c. The offender that is identified in the documentation is still listed as a member of the household or family on the new application
4. If the family vacated in lieu of eviction from any DHC property for any reason *other than drug-related criminal activity* within two (2) years from the date of application, DHC will prohibit admission to the public housing program for the following reasons:
- a. DHC has documentation supporting the grounds for termination that would have led to the eviction of the household or family (e.g. criminal records including, but not limited to, probable cause affidavits, court records, police reports, criminal background reports, etc.; other records, including but not limited to notes, photographs, resident ledgers, complaint records, incident reports, prior tenant file documentation, etc; and / or other official documents); **and**
- b. DHC has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30 day notice of termination letter, issuance of a notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a forcible detainer lawsuit against the family, and / or other records); and
- c. The family member or members identified in that documentation are still listed as members of the family on the new application.
5. For the purpose of providing a housing opportunity to as many applicants as possible, 12 months should elapse before an applicant is preliminarily eligible to reapply for the same program they have just moved out of. This shall include voluntary move outs and shall exclude, DHC-initiated unit transfers and current residents who are currently on the waitlist for another DHC development.
6. An applicant is deemed ineligible and shall be rejected if applying for the same program for which they have already been denied admissions, due to criminal history or derogatory rental history, unreported income or fraud within a 12-month period. The applicant will not be eligible to request an informal review of this rejection, due to the fact that the applicant was offered an informal review when they were initially denied admissions for criminal history and/or derogatory rental history. Twelve months (12) should elapse from the date of denial or date of the hearing decision whichever is later.

7. An applicant is deemed preliminarily ineligible and shall be rejected if applying for the public housing program and has rejected a public housing unit offer from DHC within the last 12 months from the date of the last housing offer.

As discussed in Section 3-III.F, DHC may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

### **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
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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 evidence 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.

When reviewing the criminal history of applicants, DHC will use the following chart in determining whether an applicant's ineligibility, based upon criminal history.



## CHART OF OFFENSES – DENIAL OF ADMISSION

| # | TYPE                    | CRIME CATEGORY                                                                                                                                                                                                                                                                    | SUB CATERGORY          | TIME PERIOD FOR REVIEW                                                                                                                                           |
|---|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Mandatory HUD Denial    | Lifetime sex offender registration<br>Production or manufacture of methamphetamine on the premises of federally assisted housing                                                                                                                                                  | Felony<br>Misdemeanor  | Mandatory HUD Denial<br>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 of drug-related criminal activity.<br>Possession with intent to manufacture, sell, distribute or use the drug;<br>Criminal activity that shows a pattern or history of abuse 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<br>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 |
|---|-------------------|-------------|----------------------------|----------------------------------------------------------------|

\*Unless a person can demonstrate that his/her record is incorrect (e.g., the person was never convicted of the manufacture of methamphetamine or is not subject to lifetime registration requirements, as applicable), mitigating factors will not be considered for a person whose records indicate this offense. A household with a member whose record indicates an offense with an asterisk (“\*”) may only be allowed to remain a PH program applicant if the member whose record indicates the offense, is no longer a member of the household.

If an applicant has one offense of a Class C misdemeanor within the past year, DHC will not deny the applicant.

In making its decision to deny admission, DHC will consider the factors discussed in Sections 3-III.C and 3-III.D. Upon consideration of such factors, DHC may, on a case-by case basis, decide not to deny admission.

DHC will not deny an application solely on the basis of an arrest. If DHC receives arrest information which may be for a disqualifying activity, DHC may request additional information. Additional information that may be considered, if available, include the following:

1. The police report associated with the arrest which provides the reported circumstances of the arrest.
2. Any statements made by witnesses or the applicant not included in the police report
3. Whether criminal charges were filed
4. Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
5. Any other evidence relevant to determining whether or not the applicant engaged in the disqualifying activity Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

### **Previous Behavior [960.203(c) and (d) and PH Occ GB, p. 48]**

HUD authorizes DHC to deny admission based on relevant information pertaining to the family’s previous behavior and suitability for tenancy. DHC conducts screening for family behavior and suitability for tenancy. In doing so, DHC may consider an applicant’s history

of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants. DHC complies with all Fair Housing laws. In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, DHC may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**DHC will deny admission to an applicant family if DHC determines that the family:**

1. Has a pattern of unsuitable past performance in meeting financial obligations, including rent, within the past three years.
2. Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years which may adversely affect the health, safety, or welfare of other residents.
3. Has a pattern of eviction from housing or termination from residential programs within the past five years (considering relevant circumstances).
4. Owes rent or other amounts to DHC or any other PHA or owner in connection with any assisted housing program. Former Public Housing residents or HCV participants must pay debt amounts in full before admitted to DHC.
5. Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
6. Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
7. Has engaged in or threatened violent or abusive behavior toward DHC personnel.
8. Abusive or violent behavior towards DHC personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

*Threatening* refers to oral or written threats or physical gestures that communicate intent

to abuse or commit violence.

For the purpose of providing a housing opportunity to as many applicants as possible, 12 months should elapse before an applicant is preliminarily eligible to reapply for the same program they have just moved out of. An applicant is deemed preliminarily ineligible and shall be rejected if applying for the same program for which they have already been denied admissions due to criminal history or derogatory rental history, unreported income or fraud within a 12-month period. The applicant will not be eligible to request an informal review of this rejection, provided that the applicant was offered an informal review when they were initially denied admissions for criminal history and/or derogatory rental history. Twelve months should elapse from the date of denial or date of the hearing decision whichever is later.

### **3-III.E. SCREENING FOR SUITABILITY**

#### **Screening for Suitability as a Tenant [24 CFR 960.203(c)]**

DHC is responsible for the screening and selection of families to occupy public housing units. DHC may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations

DHC will consider the family's history with respect to the following factors:

1. Payment of rent and utilities
2. Caring for a unit and premises
3. Respecting the rights of other residents to the peaceful enjoyment of their housing
4. Criminal activity that is a threat to the health, safety, or property of others
5. Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
6. Compliance with any other essential conditions of tenancy

#### **Resources Used to Check Applicant Suitability**

In order to determine the suitability of applicants, DHC will examine applicant history for the past three years. Such background checks will include:

## **Past Performance in Meeting Financial Obligations, Especially Rent**

DHC and landlord references for the past three years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether DHC or another landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. DHC and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. Use of this inquiry will be reserved for applicants applying for units where there are resident-paid utilities.

DHC may check court records of eviction actions and other financial judgments, and credit reports.

Any of these circumstances may be grounds for an ineligibility determination; however, DHC will consider mitigating circumstances in making such determination.

DHC will not deny admission of an applicant solely because they were late with rent payments, fell behind on rent, or were evicted for nonpayment of rent due to the impacts of a pandemic of federally declared disaster.

A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Zero income Applicants with no rental payment history will be asked to provide DHC with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility company do not respond to requests from DHC, the applicant may provide other documentation that demonstrates their ability to meet financial

obligations, e.g. rent receipts, cancelled checks, etc.

DHC will verify via HUD's EIV System, in the Debts Owed to PHAs and Terminations Report, whether an applicant owes a debt to another public housing agency.

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

DHC and landlord references for the past three years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect, including bed bugs, or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Court records within the past three years may be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in convictions. A record of arrest(s) will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying activity.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

### **3-III.F. CRITERIA FOR DECIDING TO DENY ADMISSION**

#### **Evidence**

HUD authorizes DHC to consider, at its discretion, all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B and Section 3-III.C). DHC will consider

all credible evidence in making admission decisions.

### **Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]**

In the event DHC receives unfavorable information with respect to an applicant, it will give consideration to the time, nature, and extent of the applicant's conduct including the seriousness of the offense. In a manner consistent with its policies, DHC may give consideration to factors which might indicate a reasonable probability of favorable future conduct. 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 facts and circumstances prior to making its decision:

- (1) The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- (2) The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act.
- (3) The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
- (4) Whether criminal charges were filed;
- (5) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; and
- (6) The length of time since the violation occurred (as discussed in 3-III.), including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
- (7) If previously incarcerated, the length of time the culpable family member has been released into society.
- (8) Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity. Evidence of criminal conduct will be considered if it indicates a

demonstrable risk to safety and/or property.

(9) Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs.

(10) In the case of drug or alcohol abuse, whether the culpable household member has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. DHC will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

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

#### **Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]**

Should DHC's screening process reveal that an applicant's household includes an individual subject to state lifetime sex offender registration, DHC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DHC must deny admission to the family.

For other criminal activity, DHC may permit the family to exclude the culpable family members as a condition of eligibility.

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

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

#### **Reasonable Accommodation [PH Occ GB, pp. 58-60]**



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

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, 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 admission. See Chapter 2 for a discussion of reasonable accommodation.

### **3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

The Violence Against Women Act (VAWA) and the HUD regulations prohibit DHC from denying 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, stalking, or human trafficking.

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

#### **Notification**

VAWA 2022 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

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

While DHC 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, stalking, or human trafficking, the applicant may inform DHC that their status as a victim is directly related to the grounds for the denial. DHC will request that the applicant provide enough information to DHC to allow DHC to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

DHC will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA

rights, and a copy of the HUD Form 5382. DHC will request in writing that an applicant wishing to claim this protection notify DHC within 14 business days of date of receipt of request for documentation.

## **Documentation**

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

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, DHC will request, in writing, that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

### **Perpetrator Documentation**

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 public housing 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.

### **3-III.H. NOTICE OF ELIGIBILITY OR DENIAL**

DHC will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E. If DHC uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the

notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before DHC can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

If based on a criminal record or sex offender registration information an applicant family appears to be ineligible, DHC will notify the family in writing of the proposed denial and provide a copy of the record to the head of household and to the subject of the record. The head of household has 10 business days to dispute the accuracy and relevance of the information. If the head of household does not timely contact DHC to dispute the information, 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 still has the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to non-citizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking are contained in Section

3-III.G.

## **CHAPTER 4: APPLICATIONS, WAITING LIST AND RESIDENT SELECTION**

### **INTRODUCTION**

This chapter describes DHC policies for taking applications, managing the waiting list and selecting families from the waiting list. DHC's policies for assigning unit size and making unit offers are contained in Chapter 5. Together, Chapters 4 and 5 comprise DHC's Tenant Selection and Assignment Plan (TSAP).

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 public housing. It also discusses the process DHC will use to keep the waiting list current.

**Part III: Tenant Selection.** This part describes the policies that guide DHC in selecting families from the waiting list as units become available. It also specifies how in-person interviews will be used to ensure that DHC has the information needed to make a final eligibility determination.

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

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

This part describes the policies that guide DHC's efforts to provide accessibility to preliminary and final applications, and to make preliminary determinations of applicant family eligibility that affect placement of the family on the waiting list. This part also describes DHC's obligation to ensure the accessibility of the application process.

#### **4-I.B. APPLYING FOR ASSISTANCE**

##### **APPLYING FOR ASSISTANCE THROUGH DHC'S DIGITAL APPLICATION PORTAL**

Any family that wishes to reside in public housing, during a period in which an LIPH program site-based waitlist is open to the general public, must apply for admission to the program.

Families who wish to apply for any of DHC's programs must complete a preliminary application (pre-application) when the waiting list is open. Waitlist pre-applications are digital and are available online at [www.dhcmi.org](http://www.dhcmi.org). Pre-applications will not require interviews. Information on the pre-application will not be verified until the pre-applicant has been selected from the waitlist for final eligibility determination. Final eligibility will be determined when the full and final application process is completed, and all information is verified.

Pre-applications are available on DHC's application portal. Once a family is selected from a waitlist and notified of the selection, a final application must be completed and returned. Final applications must be returned to DHC by mail, by fax, or submitted in person during normal business hours. DHC may accept applications via e-mail. Final applications must be complete in order to be accepted for processing by DHC. If an application is incomplete, DHC will notify the family of the additional information required, and the deadline by which the additional information must be provided.

At the time of final eligibility determination interviews, all adults listed on the final application are to provide proof of legal identity, to complete a HUD form 9886 (Authorization for Release of Information/Privacy Act Notice), and to complete a Declaration of Section 214 Citizenship Status form.

##### **FAMILIES WITH PREFERENCE APPLYING FOR ASSISTANCE ONCE GENERAL SITE-BASED WAITLISTS AND DIGITAL APPLICATION PORTAL HAVE 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 certify 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.

Families may obtain preliminary application forms from DHC's offices. Families may also request – by telephone, mail, or by email – that a form be sent to the family. Submission of digital applications will not be available when general site-based waitlists are closed.

Completed preliminary applications must be returned to DHC's central office located at 1301 E. Jefferson Ave, Detroit MI 48207, by mail, by fax, or submitted in person during normal business hours. DHC may accept applications via e-mail. Applications must be complete in order to be accepted for processing by DHC. If an application is incomplete, DHC will notify the family of the additional information required, and the deadline by which the additional information must be provided.

At the time of in-person interviews, and regardless of whether the family is in step-one or step-two of the application process, DHC requires all adults listed on the application to provide proof of legal identity, to complete HUD form 9886 (Authorization for Release of Information/Privacy Act Notice), and to complete a Declaration of Section 214. During the period when DHC's general site-based waitlists are closed, DHC will confirm all preferences at the time of the preliminary application in-take, for families who are eligible to apply to site-based waitlists year-round, based on preferences outlined in Chapters 4-III.B.

Citizenship Status form at time of application. If this is not possible, then the family will be asked to provide this information at time of the eligibility orientation, provided the family has been deemed eligible to be placed on the waiting list

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

##### **Disabled Populations**

DHC will provide reasonable accommodation to the needs of individuals with disabilities. DHC will provide an alternate approach that provides equal access to the application process. Chapter 2 provides a full discussion of DHC's policies related to providing reasonable accommodations for people with disabilities.

##### **Limited English Proficiency**

DHC is required to take reasonable steps to ensure meaningful access to its programs and activities by persons with limited English proficiency. Chapter 2 provides DHC's policies related to ensuring access to people with limited English proficiency (LEP).

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

No applicant has a right or entitlement to be listed on a waiting list, or to any particular position on a waiting list.

DHC will send written notification of the preliminary eligibility determination within 15 business days of receiving a completed application. Placement on the waiting list does not indicate that the family is, in fact, eligible for admission. A final determination of eligibility and qualification for preferences will be made when the family is selected from the waiting list.

Applicants will be placed on the waiting list according to DHC preference(s) and the date and time. DHC will assign families on the waiting list according to the bedroom size for which a family qualifies as established in its occupancy standards (see Chapter 5).

Families may request to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines (as long as the unit is not overcrowded according to DHC

standards and local codes). However, in these cases, the family must agree not to request a transfer for two years after admission, unless they have a change in family size or composition.

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

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

DHC has policies regarding the type of waiting list it will utilize as well as the various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for public housing, and conducting outreach to ensure a sufficient number of applicants.

### **4-II.B. ORGANIZATION OF THE WAITING LIST**

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

Name and social security number of head of household

Unit size required (number of family members)

Amount and source of annual income

Accessibility requirements, if any

Date and time of application or application number

Household type (family, elderly, disabled)

Admission preference, if any

Race and ethnicity of the head of household

DHC does not restrict the number of waiting lists a family can be on. Applicants are free to apply to any open waiting lists at DHC developments. However, once a family is selected from any waitlist and admitted to the program, the family will be removed from all other waitlists.



DHC will not merge the public housing waiting lists with the waiting lists for any other program DHC operates. When there are insufficient applicants on a site-based waiting list, DHC may contact applicants on the other site-based waiting lists who may qualify for the type of housing with insufficient applicants. “Insufficient applicants” on a list will be defined as not enough families to fill vacancies for at least 6-12 months based on anticipated turnover at the development.

DHC shall post on its website ([www.dhcmi.org](http://www.dhcmi.org)) all open waiting lists.

#### **4-II.C. OPENING AND CLOSING THE WAITING LIST**

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

DHC may close a waiting list when the estimated waiting period for housing applicants on the list reaches 24 months-36 months for the most current applicants. Where DHC has particular criteria that require a specific category of family, DHC may elect to continue to accept applications from those applicants while closing the waiting list to others.

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

DHC will announce the reopening of a waiting list at least 3 business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice. The notice will specify where, when, and how applications will be received.

DHC will give public notice by publishing the relevant information in suitable media outlets at one or more, but not limited to, the following:

Michigan Citizen Michigan Chronicle

Metro Times

Detroit News/ Free Press

Various Social Media Platforms

Notices may also be sent to organizations that typically assist low income families.

DHC adopted waivers outlined in PIH notice 2020-05 and subsequent PIH notices, which provides alternative process and practices during the COVID-19 pandemic, until the waiver expires.

#### **4-II.D. FAMILY OUTREACH [24 CFR 903.2(d); 24 CFR 903.7(a) and (b)]**

DHC will conduct outreach, as necessary, to ensure that DHC has a sufficient number of applicants on the waiting list to fill anticipated vacancies and to assure that DHC is affirmatively furthering fair housing and complying with the Fair Housing Act.

Because HUD requires DHC to serve a specified percentage of extremely low-income families, DHC may need to conduct special outreach to ensure that an adequate number of such families apply for public housing. DHC's outreach efforts must comply with fair housing requirements. This includes:

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

DHC's outreach efforts must be designed to inform qualified families about the availability of units under the program. These efforts may include, as needed, any of the following activities:

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

#### **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.

Changes in an applicant's circumstances while on a waiting list may affect the family's qualification for a particular bedroom size or entitlement. When an applicant reports a change that affects their placement on the waiting list, the waiting list will be updated accordingly.

#### **4-II.F. UPDATING THE WAITING LIST**

HUD requires DHC to establish policies to use when removing applicant names from the waiting list [24 CFR 960.202(a)(2)(iv)].

##### Purging the Waiting List

The waiting list will be updated periodically to ensure that all applicant information is current and timely.

To update the waiting list, DHC will mail, and with permission from the applicant(s), email an update request to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last mailing address and email 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 must be in writing and may be delivered in person, by mail, electronic mail or by fax. Responses should be postmarked or received by DHC not later than 10 business days from the date of DHC's letter.

If the family fails to respond within 10 business days, the family will be removed from the waiting list without further notice.

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

If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. The family will have 10 business days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list without further notice.

When a family is removed from the waiting list during the update process for failure to respond, no informal hearing will be offered. Such failures to act on the part of the applicant prevent DHC from making an eligibility determination; therefore, no informal hearing is required.

If a family is removed from the waiting list for failure to respond, the Executive Director, 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, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse..

### **Removal from the Waiting List**

DHC will remove applicant from the waiting list if they have requested that their name be removed. In such cases no informal hearing is required.

If DHC determines that the family is not eligible for admission (see Chapter 3) at any time while the family is on a waiting list, the family will be removed from the waiting list.

If a family is removed from a waiting list because DHC has determined the family is not eligible for admission, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal hearing (see Chapter 14) [24 CFR 960.208(a)].

## **PART III: RESIDENT SELECTION**

### **4-III.A. OVERVIEW**

DHC must establish tenant selection policies for families being admitted to public housing [24 CFR 960.201(a)]. DHC must not require any specific income or racial quotas for any developments [24 CFR 903.2(d)]. DHC must not assign persons to a particular section of a community or to a development or building based on race, color, religion, sex, disability, familial status, gender identity, sexual orientation, or national origin for purposes of segregating populations [24 CFR 1.4(b)(1)(iii) and 24 CFR 903.2(d)(1)].

The order in which families will be selected 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 availability of units also may affect the order in which families are selected from the waiting list. DHC must 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 [24 CFR 960.206(e)(2)]. DHC's policies must be posted any place where DHC receives applications. DHC must provide a copy of its tenant selection policies upon request to any applicant or tenant. PHAs may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)]. However, when an applicant or resident family requests a copy of DHC's resident selection policies, DHC may provide copies to them free of charge.

### **4-III.B. SELECTION METHOD**

#### **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 based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)]

Eligible applicants shall be offered a dwelling unit based on the date and time of application, after taking into consideration the size of the unit and, if applicable, the appropriate local preference. For purposes of establishing priority, applicants and families involuntarily displaced, because of a federally declared disaster or DHC's action involving rehabilitation, demolition or other disposition

of dwelling units, will receive priority over all other local preference.

DHC will use the following local preferences on each of its public housing site-based waiting lists:

**Families Displaced by Federally Declared Disaster:** DHC will establish a preference for families displaced by a federally declared disaster occurring within twelve (12) months of the incident, for any period after July 1, 2005. This preference takes priority over all other local DHC preferences.

In administering this preference, displaced families from other public housing authorities, whether the family is a displaced public housing or voucher participant, shall have preference over displaced families who are not public housing or voucher participants. The preference does not guarantee eligibility for admission to the public housing program for displaced families that are not from another public housing authority. This preference takes priority over all other local DHC preferences. An applicant which certifies to this preference may apply for placement on any DHC site-based wait list. The waitlists will remain open for this preference.

**Elderly Families:** Families in which the head of household, spouse or co-head are age 62 or older are eligible for the Elderly preference. An applicant that certifies to this preference may apply to placement on any DHC site-based waitlist, with priority greater than the general public and equal to all other local preferences except “Families Displaced by Federally Declared Disaster” and “Homeless” applicants selected from DHC’s Centralized Waitlist, which all have a higher priority. The waitlists placement for families who identify and certify to this preference, will remain open year-round.

**Local Preference Related to VAWA Victims:**

A local preference is available for families that include victims of domestic violence, dating violence, sexual assault or stalking. The preference does not guarantee eligibility for admission to the public housing program. All families assisted under this preference must 1) apply with and be referred to DHC by an organization with which DHC has a formal

partnering agreement, or 2) be referred by DHC's Director of Resident Services.

All families must provide documentation of VAWA victim status. During the application process the applicant must certify that the abuser will not reside with the applicant without DHC's prior, written approval.

DHC will only accept referrals from an agency, organization or consortia with which DHC has a formal agreement. These agreements must be signed by DHC's Executive Director. The terms and conditions of the agreements will be based upon the population to be served. DHC has the right to limit the number of partner agencies, organizations and consortia to ensure administrative efficiency. 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. An applicant eligible for this preference may apply for placement on DHC's site-based waitlist. The site-based waitlist will remain open for this preference. An applicant that certifies to this preference may apply to placement on any DHC site-based waitlist, with priority greater than the general public and equal to all other local preferences except "Families Displaced by Federally Declared Disaster", "Elderly Families" and "Homeless" applicants selected from DHC's Centralized Waitlist, which all have a higher priority. The waitlists for applicants with this preference, will remain open year-round.

### **Homeless Families:**

A local preference is available for families that are certified as homeless by a partnering agency AND have been selected by DHC from the Centralized Homeless Waitlist . The preference does not guarantee eligibility for admission to the public housing program. DHC will provide housing assistance for up to Fifty (50) new admissions per year, to homeless families who are referred for assistance through formal agreements with partnering organizations. All families assisted under this preference must:

- 1) Apply to DHC's centralized waitlist and in order to claim this preference, AND
- 2) Must be referred to DHC by an organization with which DHC has a formal partnering agreement or be referred by DHC's Director of Resident Services.

- 3) Apply for placement on at least one of DHC's site-based waitlists. Site-based eligibility requirements are applicable.
- 4) Have agency certified referrals within 120 days of admission to the waitlist and within 120 days of admission to the program.

DHC will only accept referrals from an agency, organization or consortia with which DHC has a formal agreement. These agreements must be signed by DHC's Executive Director. The terms and conditions of the agreements will be based upon the population to be served. DHC has the right to limit the number of partner agencies, organizations and consortia to ensure administrative efficiency. 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. The applicant must certify their homeless status at the time of selection from the centralized waitlist. If the applicant's homeless status changes and the family is no longer considered homeless, the applicant must notify DHC in writing and, the family will be removed from the centralized waitlist. The applicant may remain on the site-based waitlist but, will be subject to the site's selection process and local preferences noted in this chapter.

An applicant that certifies to this preference on the centralized waitlist, will have a priority greater than the all other local preferences except, "Families Displaced by Federally Declared Disaster", which takes a higher priority. Once an applicant is selected from the centralized waitlist, the homeless preference will be applied to the applicant's placement on the site-based waitlist(s) of which the applicant has applied. An applicant that certifies to this preference on the centralized waitlist may apply to placement on any DHC site-based waitlist. Homeless families may choose to apply for placement on any of DHC's site-based waitlists without applying for placement on the centralized waitlist. However, the site-based waitlist selection order is based on the site-based local preferences noted in this chapter.

The centralized waitlist will remain open for this preference and families referred to the centralized waitlist may also apply for placement on the site-based waitlist, as long as the centralized waitlist remains open to this preference.

DHC may close the waiting list when the estimated waiting period for housing applicants on



the centralized waitlist reaches 18 months to 24 months for the most current applicants

Once a family is selected from any waitlist and admitted to the program, the family will be removed from all other waitlists.

Once a family is selected from any waitlist and admitted to the program, the family will be removed from all other waitlists.

### **Income Targeting [24 CFR 960.202(b)]**

DHC will monitor its admissions to ensure that at least 40 percent of families admitted to public housing in each fiscal year are extremely low income (ELI) families.

ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever number is higher.

Once DHC has met the 40% targeted income requirement for new admissions of extremely low-income families, DHC will fill the remainder of its new admission units with families whose incomes do not exceed 80% of the HUD approved area median income.

### **Mixed Population Developments [24 CFR 960.407]**

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or that after its inception was converted for elderly and disabled families.

At this time DHC does not operate or anticipate operating a “mixed population” development.

### **Units Designated for Elderly or Disabled Families [24 CFR 945]**

DHC does not have designated disabled housing at this time. DHC operates “Senior Only” developments as described in DHC’s approved Designated Housing Plan.

## **Units Designed for the Disabled**

DHC has units designed specifically for persons with mobility, sight and hearing impairments (referred to as accessible units). Preference for occupancy of these units will be given to families with disabled family members who require the modifications or facilities provided in the accessible units.

## **General Occupancy Units**

General occupancy units are designed to house all populations of eligible families. In accordance with DHC's occupancy standards, eligible families not needing accessible units will be admitted to DHC's general occupancy units. DHC will treat all single applicants who are not elderly or disabled as they would any other family for admission purposes.

## **Deconcentration of Poverty and Income-Mixing [24 CFR 903.1 and 903.2]**

### **Steps for Implementation**

To implement the statutory requirement to deconcentrate poverty and provide for income mixing in covered developments, DHC must comply with the following steps:

### **Deconcentration of Poverty and Income-Mixing**

DHC's admission policy is designed to provide for deconcentration of poverty and income-mixing by bringing higher income residents into lower income developments and lower income residents into higher income developments, where possible. Gross annual income is used for income limits at admission and for income-mixing purposes.

### **Deconcentration Methodology**

DHC shall admit lower income families to higher income developments and admit higher income families to lower income developments using the following steps:

Step 1: DHC will annually determine the average income of all families residing in all general occupancy (family) developments including families residing in developments

approved for demolition or conversion to resident-based assistance and families residing in public housing units in mixed-finance developments.

Step 2: DHC will annually determine the average income of all families residing in each building of each general occupancy development.

Step 3: DHC will annually characterize each building of each general occupancy development as higher income or lower income based on whether the average income in the building is above or below the overall average.

Step 4: DHC will determine which families on the waiting list have incomes higher than the DHC-wide average and designate these families “higher income families,” and which have incomes lower than the DHC-wide average and designate these families “lower income families.”

Step 5: When a unit becomes available in a higher income building, DHC shall skip families on the waiting list if necessary to reach a lower income family to whom it will offer the unit. When a unit becomes available in a lower income building, DHC shall skip families on the waiting list if necessary to reach a higher income family to whom it will offer the unit. Skipping shall be applied to the site-based waiting lists. If a waiting list does not contain a family in the income category to which the unit is to be offered, DHC shall offer the unit to a family in the other income category.

### **Definition of Building for Purposes of Deconcentration**

For purposes of deconcentration, a “building” is one or more contiguous structures containing at least 8 public housing units. For scattered sites and small developments, if a development contains no structures that qualify as a building, the deconcentration requirement is applied to the entire development as if the development were a building. If DHC has provided the family that resided in public housing on the site of a mixed finance or other development the right to return to that development after revitalization, the deconcentration policy is inapplicable to that family. A family has the sole discretion whether to accept an offer of a unit made under the deconcentration policy. DHC shall not take any adverse action toward any eligible family for choosing not to accept an offer of a

unit.

DHC shall uniformly limit the number of offers received by applicants. Nothing in the deconcentration policy relieves DHC of the obligation to meet the income targeting requirements.

### **DHC Incentives for Higher Income Families**

DHC may offer certain incentives to higher income families willing to move into lower income developments.

### **Order of Selection [24 CFR 960.206(e)]**

Families will be selected from the waiting list based on preference. Among applicants with preferences, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by DHC and the ranking of their preference as defined in this policy.

When selecting applicants from the waiting list, DHC will match the characteristics of the available unit (unit size, accessibility features, unit type) to the applicants on the waiting lists. DHC will offer the unit to the highest ranking applicant who qualifies for that unit size or type, or that requires the accessibility features.

By matching unit and family characteristics, it is possible that families who are lower on the waiting list may receive an offer of housing ahead of families with an earlier date and time of application or higher preference status.

Factors such as deconcentration or income-mixing and income targeting will also be considered in accordance with HUD requirements and DHC policy.

### **4-III.C. NOTIFICATION OF SELECTION**

DHC will notify the family by mail when it is selected from the waiting list.

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

- Who is required to attend the interview
- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation
- Documents that must be provided at the interview to document eligibility for a preference, if applicable
- Other documents and information that should be brought to the interview

If a notification letter is returned to DHC with no forwarding address, the family will be removed from the waiting list without further notice. Such failure to act on the part of the applicant prevents DHC from making an eligibility determination; therefore, no informal hearing will be offered.

#### **4-III.D. THE APPLICATION INTERVIEW**

Families selected from the waiting list are required to participate in an in-person eligibility interview.

The head of household and the spouse/co-head will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/co-head may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to DHC.

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

Pending disclosure and documentation of social security numbers (SSN), DHC will allow the family to retain its place on the waiting list for six (6) months. If all household members have not disclosed their SSNs by the next time a unit becomes available, DHC will offer a

unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for the preference (see Chapter 7). If the family is verified as eligible for the preference, DHC will proceed with the interview. If DHC determines the family is not eligible for the preference, the interview will not proceed, and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures, and submit 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 within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of SSNs 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 will be sent a notice of denial (see Chapter 3). An advocate, interpreter, or other assistant may assist the family with the application and the interview process. Interviews will be conducted in English. For limited English proficient (LEP)

applicants, DHC will provide translation services in accordance with DHC's LEP plan, if any.

If the family is unable to attend a scheduled interview, the family should contact DHC in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, DHC will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without DHC approval will have their applications made inactive based on the family's failure to supply information needed to determine eligibility. The second appointment letter will state that failure to appear for the appointment without a request to reschedule will be interpreted to mean that the family is no longer interested and their application will be made inactive. Such failure to act on the part of the applicant prevents DHC from making an eligibility determination; therefore, DHC will not offer an informal hearing.

#### **4-III.E. FINAL ELIGIBILITY DETERMINATION**

If DHC determines that 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 of its right to request an informal hearing (see Chapter 14).

If DHC uses a criminal record or sex offender registration information as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before DHC can move to deny the application. See Section 3-III.G for DHC's policy regarding such circumstances.

DHC must provide the family a notice of VAWA rights as well as the HUD VAWA self-certification form (form HUD-5382) in accordance with the Violence Against Women Act, and as outlined in 16-VII.C, at the time the applicant is provided assistance or at the time the applicant is denied assistance. The notice and self-certification form must

accompany the written notification of eligibility determination. This notice must be provided in both of the following instances: (1) when a family actually begins receiving assistance (lease execution); or (2) when a family is notified of its ineligibility.



## **Chapter 5: OCCUPANCY STANDARDS AND UNIT OFFERS**

### **INTRODUCTION**

DHC must establish policies governing occupancy of dwelling units and offering dwelling units to qualified families.

This chapter contains policies for assigning unit size and making unit offers. DHC's waiting list and selection policies are contained in Chapter 4. Together, Chapters 4 and 5 of the ACOP comprise DHC Tenant Selection and Assignment Plan (TSAP).

Policies in this chapter are organized in two parts.

Part I: Occupancy Standards. This part contains DHC's standards for determining the appropriate unit size for families of different sizes and types.

Part II: Unit Offers. This part contains DHC's policies for making unit offers and describes actions to be taken when unit offers are refused.

### **PART I: OCCUPANCY STANDARDS**

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

Occupancy standards are established by DHC to ensure that units are occupied by families of the appropriate size. This policy maintains the maximum usefulness of the units, while preserving them from excessive wear and tear or underutilization. Part I of this chapter explains the occupancy standards. These standards describe the methodology and factors DHC will use to determine the size unit for which a family qualifies and includes the identification of the minimum and maximum number of household members for each unit size. This part also identifies circumstances under which an exception to the occupancy standards may be approved.

#### **5-I.B. DETERMINING UNIT SIZE**

In selecting a family to occupy a particular unit, DHC may match characteristics of the family with the type of unit available, for example, number of bedrooms [24 CFR 960.206(c)]. Although DHC does determine the size of unit the family qualifies for under the occupancy

standards, the DHC does not determine who shares a bedroom/sleeping room.

DHC's occupancy standards for determining unit size must be applied in a manner consistent with fair housing requirements.

DHC will use the same occupancy standards for each of its developments.

DHC's occupancy standards are as follows:

DHC will assign one bedroom for each two persons within the household, except in the following circumstances:

1. A head of household (leaseholder) who is married or has a cohabitating partner, will be allocated one bedroom.
2. Persons of the opposite sex (other than spouses and cohabitating partners), will not be required to share a bedroom.
3. Persons of different generations will not be required to share a bedroom. Children shall generally not be required to share a bedroom with an adult
4. Live-in aides may be allocated a separate bedroom. No additional bedrooms will be provided for the live-in aide's family.
5. Single person families will be allocated a zero or one bedroom.
6. Foster children will be included in determining unit size only if they will be in the unit for more than 12 months.
7. A family member who will be absent most of time, such as a member who is away in the military, will not be considered in determining unit size.
8. Children over two (2) years old who are in the process of being adopted are considered Family members for the purpose of determining bedroom size, but are not considered Family members for determining income limit. In determining unit size, DHC will count a child who is temporarily away from the home because the child has been placed in foster care.

DHC will reference the following guidelines in determining the appropriate unit bedroom size for a family:

| BEDROOM SIZE | MINIMUM NUMBER OF PERSONS | MAXIMUM NUMBER OF PERSONS |
|--------------|---------------------------|---------------------------|
| 0            | 1                         | 2                         |
| 1            | 1                         | 2                         |
| 2            | 2                         | 4                         |
| 3            | 3                         | 6                         |
| 4            | 4                         | 8                         |
| 5            | 5                         | 10                        |
| 6            | 6                         | 12                        |

The living room will not be used as a bedroom except with written DHC approval. Basements can never be used as living space.

## **5-I.C. EXCEPTIONS TO OCCUPANCY STANDARDS**

### **Types of Exceptions**

DHC will consider granting exceptions to the occupancy standards at the family's request if DHC determines the exception is justified by the relationship, age, sex, health or disability of family members, or other personal circumstances. For example, an exception may be granted if a larger bedroom size is needed for medical equipment due to its size and/or function, or as a reasonable accommodation for a person with disabilities. An exception may also be granted for a smaller bedroom size in cases where the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides (according to the chart in Section 5I.B) and the family does not want to transfer to a larger size unit. When evaluating exception requests, DHC will consider the size and configuration of the unit. In no case will DHC grant an exception that is in

violation of local housing or occupancy codes, regulations or laws.

Requests from applicants to be placed on the waiting list for a unit size smaller than designated by the occupancy standards will be approved as long as the unit is not overcrowded according to local code, and the family agrees not to request a transfer for a period of two years from the date of admission, unless they have a subsequent change in family size or composition.

To prevent vacancies, DHC may provide an applicant family with a larger unit than the occupancy standards permit. However, in these cases the family must agree to move to a suitable, smaller unit when another family qualifies for the larger unit and there is an appropriate size unit available for the family to transfer to.

### **Processing of Exceptions**

All requests for exceptions to the occupancy standards must be submitted in writing.

In the case of a request for exception as a reasonable accommodation, the DHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, DHC will consider the exception request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

Requests for a larger size unit must explain the need or justification for the larger size unit 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 decision within 15 business days of receiving the family's request.

## **PART II: UNIT OFFERS**

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

This section describes DHC's policies with regard to the number of unit offers that will be made to applicants selected from a waiting list. This section also describes DHC's policies for offering units with accessibility features.

DHC will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection, including the reason for the rejection.

### **5-II.B. NUMBER OF OFFERS**

DHC's plan for offering units to applicants is to make one-unit offer based on the applicant's position on the wait list.

When an applicant rejects the unit offer without good cause, DHC will remove the applicant's name from the wait list. Removal from the waiting list means the applicant must reapply for admission. In those cases, the applicant is not entitled to an informal review. If the applicant rejects the unit offer with good cause, the next available unit deemed suitable for the family will be offered. In these cases, the second unit offer will be the final offer. What constitutes good cause for a unit rejection will be decided on a case-by-case basis and must be approved by the Director of Real Estate Management or designee.

### **5-II.C. TIME LIMIT FOR UNIT OFFER ACCEPTANCE OR REFUSAL**

Applicants must accept or refuse a unit offer, in writing, within 3 business days of the date of the unit offer. Offers made by telephone will be confirmed by letter.

### **5-II.D. REFUSALS OF UNIT OFFERS**

#### **Good Cause for Unit Refusal**

Applicants may refuse to accept a unit offer for “good cause.” Good cause includes situations in which an applicant is willing to move but is unable to do so at the time of the unit offer, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant’s race, color, national origin, etc.

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to DHC’s satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to DHC’s satisfaction that accepting the offer will place a family member’s life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members, as listed on final application, or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant’s disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

In the case of a unit refusal for good cause the applicant will not be removed from the waiting list. The applicant will remain on the wait list but will be re-sequenced. When the applicant again reaches the top of the wait list, the second unit offer will be made.

DHC will require documentation of good cause for unit refusals.

## **Unit Refusal without Good Cause**

When an applicant rejects the final second unit offer with or without good cause, DHC will remove the applicant's name from the waiting list and send notice to the family of such removal. The notice will inform the family of its right to request an informal review and the process for doing so (see Chapter 14).

The applicant may reapply for assistance if the waiting list is open. If the waiting list is not open, the applicant must wait to reapply until DHC opens the waiting list.

## **5-II.E. ACCESSIBLE UNITS**

When an accessible unit becomes vacant, before offering such units to a non-disabled applicant DHC must offer such units:

First, to a current resident of another unit of the same development, or other public housing development under DHC's control, who has a disability that requires the special features of the vacant unit and is occupying a unit not having such features, or if no such occupant exists.

Second, to an eligible qualified applicant on the waiting list having a disability that requires the special features of the vacant unit.

Families requiring an accessible unit may be over-housed in such a unit if there are no resident or applicant families of the appropriate size who also require the accessible features of the unit.

When there are no resident or applicant families requiring the accessible features of the unit, including families who would be over-housed, DHC will offer the unit to a nondisabled applicant.

When offering an accessible unit to a non-disabled applicant, DHC will require the applicant to agree to move to an available non-accessible unit within 30 days when either a current resident or an applicant needs the features of the unit and there is another unit available for the non-disabled family. This requirement will be a provision of the lease

agreement.

## **5-II.F. DESIGNATED HOUSING**

DHC's policies for offering units designated for elderly families only are described in DHC's Designated Housing Plan.



## Chapter 6: INCOME AND RENT DETERMINATIONS

### INTRODUCTION

A family's income determines eligibility for assistance and is also used to calculate the family's rent payment. 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. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and DHC policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

Part III: Adjusted Income. Once annual income has been established, DHC subtracts from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to adopt additional permissive deductions. DHC policies for calculating adjusted income are found in Part III.

Part IV: Calculating Rent. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining family rent payment. Also, included here are flat rents and the family's choice of rents.

### PART I: ANNUAL INCOME

#### 6-I.A. OVERVIEW

Annual income includes:

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;

- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated. In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous version of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations for treating specific types of assets.

Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

### Overview

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 in accordance with HUD regulations and DHC policies in Chapter 9. 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 (both earned and unearned) is excluded |

|                                                                            |                                                                                                                                                        |
|----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Foster child or foster adult                                               | Income from all sources (both earned and unearned) is excluded.                                                                                        |
| Head, spouse, or co-head<br>Other adult family members                     | All sources of income not specifically excluded by the regulations are included.                                                                       |
| Minors                                                                     | Earned income is excluded.<br><br>All other sources of unearned income, except those specifically excluded by the regulations, are included.           |
| Full-time students 18 years of age or older (not head, spouse, or co-head) | Earned income above \$480/year is excluded. All other sources of unearned income, except those specifically excluded by the regulations, are included. |

### Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

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

### 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.

### **Absences Due to Placement in Foster Care**

Children temporarily absent from the home as a result of placement in foster care (as confirmed by the state child welfare agency) are considered members of the family.

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

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

An employed head of household, spouse, or co-head absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

### **Family Members Confined for Medical Reasons**

If a family member is confined to a nursing home or hospital on a permanent basis, PHAs may determine that that person is no longer a member of the assisted household, and the income of that person is not counted [New PH OCC GB, *Income Determinations*, p. 12].

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or cohead qualifies as an elderly person or a person with disabilities.

### **Joint Custody of Children**

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

When more than one applicant or assisted family, regardless of program, are claiming the

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

### **Caretakers for a Child**

If neither a parent nor a designated guardian remains in a household receiving assistance, DHC will take the following actions:

If a responsible agency has determined that another adult is to be brought into the unit to care for a child for an indefinite period, the designated caretaker will be screened to determine eligibility to live in public housing. An approved caretaker will not be considered a family member until a determination of custody or legal guardianship is made.

If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. After the 90 days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases DHC will extend the caretaker's status as an eligible visitor.

At any time that custody or guardianship legally has been awarded to a caretaker, the lease will be transferred to the caretaker, as head of household.

During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## **6-I.C. CALCULATING ANNUAL INCOME**

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

### **Anticipating Annual Income [24 CFR 5.609(c)(1)]**

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. 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.

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.

### **Known Changes in Income**

If DHC verifies an upcoming increase or decrease in income, annual income will be projected 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 new admission or interim reexamination. In such a case DHC would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$ .

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DHC will calculate annual income using current circumstances and then, should the change in income require DHC to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 9

### **Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2);**

### **Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rent. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 9.

## **6-I.D. EARNED INCOME**

### **Wages and Related Compensation**

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

*Earned income* means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position( e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

DHC will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, DHC will verify and then average amounts received for the two years preceding admission or reexamination. If only

a one-year history is available, DHC will use the prior year amounts. 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. The file will be documented appropriately.

### **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. Where authorized by HUD, DHC may use actual past income in determining annual income from military pay.

### **Types of Earned Income Not Counted in Annual Income**

#### **Earnings of a Minor**

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

#### **Earned Income of Full-Time Students**

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. Full-time status is defined by the educational or vocational institution the student is attending.

#### **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, 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.

## **6-I.E. EARNED INCOME DISALLOWANCE**

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating on the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and DHC policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

### **Calculation of the Disallowance**

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with his or her "baseline income." The family member's baseline income is his or her income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that he or she is participating in the EID.

### **Calculation Method Initial 12-**

#### **Month Exclusion**

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

The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in

earnings.

## **Second 12-Month Exclusion**

During the second exclusion period of 12 consecutive months, DHC must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

During the second 12-month exclusion period, DHC will exclude 50 percent of any increase in income attributable to new employment or increased earnings.

## **Lifetime Limitation**

The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends 24 months later. During the 24-month period, an individual remains eligible for EID even if they receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

## **6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME**

Annual income includes net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may 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 IRS 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.

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 [see IRS Publication 535], unless a topic is addressed by HUD regulations or guidance as described herein.

## **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

An *independent contractor* is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

## **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 IRS rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

Where authorized by HUD, DHC may use actual past income in determining net annual income from the operation of a business or profession.

## **Business Expansion**

DHC may not deduct from gross income expenses for business expansion.

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

## **Capital Indebtedness**

DHC may not 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.

### **Negative Business Income**

If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

### **Withdrawal of Cash or Assets from a Business**

Annual income includes 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 a resident 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.

### **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.

### **Assets Owned by a Business Entity**

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant).

## **6-I.G.**

### **6-I.H. PERIODIC PAYMENTS**

Periodic payments are forms of income received on a regular basis. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment**

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

DHC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

When a delayed-start payment is received that is to be included and the family report this 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.

If the delayed-start payment is received outside of the time DHC is processing an annual reexamination, then DHC will consider whether the amount meets the threshold to conduct an interim reexamination. If so, DHC will conduct an interim in accordance with DHC policies in Chapter 9. If not, DHC will consider the amount when processing the family's next annual recertification.

### **Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]**

Income received from any account under a retirement plan recognized as such by the IRS,

including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

DHC is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. When the SSA overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full, DHC must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. Further, if a family’s social security income is garnished for any reason, DHC will use the net amount after the garnishment in order to calculate the family’s income.

## **6-I.J. WELFARE ASSISTANCE**

### **Overview**

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

### **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. This rule applies only if a family was a public housing

resident at the time the sanction was imposed.

### **Covered Families**

Families who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

### **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. DHC must request that the welfare agency inform DHC when the benefits of a public housing resident are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements, or (3) because a family member has not complied with other welfare agency requirements.

For special procedures related to grievance hearings based upon DHC's denial of a family's request to lower rent when the family experiences a welfare benefit reduction, see Chapter 14, Grievances and Appeals.

### **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

## **6-I.K. 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 a resident family.

### **Alimony and Child Support**

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family’s child-support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

DHC will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

DHC will count court-awarded amounts for alimony and child support unless the family certifies and DHC verifies that the payments are not being made.

In order to verify that payments are not being made, DHC will review child support payments over the last three months.

If payments are being made regularly, DHC will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, DHC will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, DHC will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If DHC determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If DHC determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, DHC will not include alimony or child support in annual income.

### **Regular Contributions or Gifts**

DHC must count as income regular monetary and non-monetary contributions or gifts



from persons not residing with a resident family. Temporary, non-recurring, or sporadic income and gifts are 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.

When authorized by HUD, DHC may use actual past income in determining annual income from regular monetary and non-monetary contributions or gifts from persons not residing with a resident family.

#### **6-I.I. NONRECURRING INCOME [24 CFR 5.609(b)(24) and Notice PIH 2023-27]**

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

#### **6-I.M. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family's assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.N. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act,

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

## **6-I.L. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

Other exclusions that have not been discussed earlier in this chapter include the following: Other exclusions contained in 24 CFR 5.609(b) and that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)] However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].

- Income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are

set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].

- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, 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 unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].
  - 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 of time. It is designed to lead to a higher level of proficiency, and it enhances the individual’s ability to obtain employment. It may have performance standards to measure proficiency. Training may include but is not limited to: (1) classroom training in a specific occupational skill, (2) on-the-job training with wages subsidized by the program, or (3) basic education” [expired Notice PIH 98-2, p. 3].
  - 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 [expired Notice PIH 98-2, pp. 3–4].
  - 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 the PHA’s interim reporting requirements (see Chapter 11).
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].
- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance

programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary [24 CFR 5.609(b)(22)].

- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
  - (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
  - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
  - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
  - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
  - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
  - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
  - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
  - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
  - (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
  - (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
  - (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
  - (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
  - (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
  - (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida



- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109–249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

## **PART II: ASSETS**

### **6-II.A. OVERVIEW**

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is

included. Exhibit 6-2 provides the regulatory definition of *net family assets*. Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3. Income from assets is always anticipated, irrespective of the income examination type.

DHC generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. DHC will use other than current circumstances to anticipate income when (1) an imminent change in circumstances is expected, (2) it is not feasible to anticipate a level of income over 12 months, or (3) DHC believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income, but the property is currently vacant 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.

#### **6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset. An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

##### ***Minimum Threshold***

HUD does not specify a minimum threshold for counting assets disposed of for less than fair market value. A PHA may establish a policy to ignore small amounts such as charitable contributions [New PH OCC GB, *Income Determinations*, p. 24].

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

##### ***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a



formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

### ***Foreclosure or Bankruptcy***

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### ***Asset Owned by a Business Entity***

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

### ***Family Declaration***

Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. 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.

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS**

### ***Checking and Savings Accounts [Notice PIH 2023-27]***

HUD considers bank accounts as non-necessary items of personal property. Whether or not necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

### ***ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]***

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section

103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds [24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's financial investments such as stocks and bonds would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

PHA Policy

The PHA will include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested.

The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

In determining the market value of an investment account, the PHA will use the value of the account on the most recent investment report.

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*. *Personal property* includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may

include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all non-necessary items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

| Necessary Personal Property                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Non-Necessary Personal Property                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p> | <p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p> |

#### PHA Policy

In determining the value of non-necessary personal property, the PHA will use the family's estimate of the value. The PHA 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.

#### ***Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]***

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 9. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

PHA Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

***Jointly Owned Assets [Notice PIH 2023-27]***

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;
- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

PHA Policy

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide

proper documentation demonstrating that they are only a beneficiary on the account.

***Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]***

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).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

### ***Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]***

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

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. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

### ***Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]***

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

### ***Asset Exclusions [24 CFR 5.603(b)]***

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].



- Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

#### **6-II.D. DETERMINING INCOME FROM ASSETS**

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

#### ***Net Family Assets***

*Net family assets* are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

##### PHA Policy

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



settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

The calculation of asset income sometimes requires the PHA to make a distinction between an asset's market value and its cash value.

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

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

### ***Actual Income from Assets***

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

### ***Imputed Income from Assets***

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on the Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income

generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

## **PART III: ADJUSTED INCOME**

### **6-III.A. INTRODUCTION**

#### **Overview**

DHC deducts from annual income any of five mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity (PHA) must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any elderly family or disabled family;
- (3) The sum of the following, to the extent the sum exceeds three percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7, Verifications.

### **Anticipating Expenses**

Generally, DHC will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g., child care during school and non-school periods and cyclical medical expenses), 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 debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DHC may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, DHC will include those expenses anticipated to be incurred during the 12 months following the certification date reexam which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the *PH Occupancy Guidebook* states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, *Income Determinations*, p. 30]. For annual reexaminations, DHC will use information for the previous 12-month period.

### **6-III.B. DEPENDENT DEDUCTION**

A deduction of \$480 is taken for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25). 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-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION**

A single deduction of \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25). 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-III.D. MEDICAL EXPENSES DEDUCTION**

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent (10%) of annual income.

This deduction is permitted only for families in which the head of household, spouse, or co-head is at least 62 or is a disabled person. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

#### **Definition of Medical Expenses**

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean “any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

## **Families That Qualify for Both Health and 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 or is a disabled person.

When expenses anticipated by a family could be defined as either a health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION**

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities 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 ten percent (10%) of annual income; and (4) do not exceed the earned income received by the family member who is enabled to work.

#### **Earned Income Limit on the Disability Assistance Expense Deduction**

A family can qualify for the disability assistance expense deduction only if at least one family member, who may be the disabled person, is enabled to work.

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family’s request, 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 disabled person, and any special needs of the disabled person that might determine

which family members are enabled to work.

When DHC determines that the disability assistance expenses enable more than one family member to work, the disability assistance expenses will be capped by the sum of the family members' incomes.

### **Eligible Auxiliary Apparatus**

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type, or special equipment to assist a person who is deaf or hard of hearing.

### **Eligible Attendant Care**

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the disabled person.

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 disabled person, personal services necessary to enable the disabled person 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 disabled person, 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.

### **Payments to Family Members**

No disability expenses may be deducted for payments to a member of a resident family. However, expenses paid to a relative who is not a member of the resident family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

DHC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DHC will collect information from 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.

### **Families That Qualify for Both Health and 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 or is a person with disabilities. When expenses anticipated by a family could be defined as either health and medical care or disability assistance expenses, DHC will consider them health and medical care expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

### **6-III.F. CHILD CARE EXPENSE DEDUCTION**

Child care expenses are "amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit

employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

Child care expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family’s household. However, child care expenses for foster children that are living in the assisted family’s household are included when determining the family’s child care expenses.

## **Qualifying for the Deduction**

### **Determining Who Is Enabled to Pursue an Eligible Activity**

The family must identify the family member(s) enabled to pursue an eligible activity. The term eligible activity in this section means any of the activities that may make the family eligible for a child care deduction, 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.

### **Seeking Work**

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by DHC.

### **Furthering Education**

If the child care expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school, academic or vocational, or participating in a formal training program. The family member is not required to be a full-



time student, but the time spent in educational activities must be commensurate with the child care claimed.

### **Being Gainfully Employed**

If the child care expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that child care is being provided. Gainful employment is any legal work activity, full- or part-time, for which a family member is compensated.

### **Earned Income Limit on Child Care Expense Deduction**

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. However, when child care enables a family member to work, the deduction is capped by “the amount of employment income that is included in annual income”.

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 who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, child care costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, child care expenses are limited to \$5,000.

DHC must not limit the deduction to the least expensive type of child care. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

When the child care 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

child care 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.

### **Eligible Child Care Expenses**

The type of care to be provided is determined by the resident family. DHC may not refuse to give a family the child care expense deduction because there is an adult family member in the household that may be available to provide child care.

### **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 child care.

The costs of general housekeeping and personal services are not eligible. Likewise, child care expenses paid to a family member who lives in the family's unit are not eligible; however, payments for child care to relatives who do not live in the unit are eligible.

If a child care provider also renders other services to a family or child care 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 child care 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 child care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### **Necessary and Reasonable Costs**

Child care expenses will be considered necessary if: (1) a family adequately explains how the care enables a family member to work, actively seek employment, or further his

or her education; and (2) the family certifies, and the child care provider verifies, that the expenses are not paid or reimbursed by any other source.

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, DHC will use the schedule of child care costs from 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.

### **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

#### ***Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]***

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed. Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

#### ***Phased-In Relief***

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.

- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA.

#### PHA Policy

The PHA will not continue the phased-in relief for families who move from the HCV program to public housing. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

#### PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) or that the family's financial hardship is a result of a change in circumstances. The PHA defines a *change in circumstances* as a decrease in income or increase in other

expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of *circumstances* constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

- Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party *verification* is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

- If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

- If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions. PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional

extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

***Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]***

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship



exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

#### PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. . PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

#### PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

### **6-III.H. PERMISSIVE DEDUCTIONS**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the ACOP. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage

self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

If the PHA chooses to adopt permissive deductions, the PHA is not eligible for an increase in Capital Fund and Operating Fund formula grants based on the application of those deductions. The PHA must establish a written policy for such deductions.

The *Form HUD-50058 Instruction Booklet* states that the maximum allowable amount for total permissive deductions is less than \$90,000 per year.

DHC does have one permissive deduction. Families in which the head of household, spouse, or sole member has earned income and pays medical expenses will be eligible for the health and medical care deduction in accordance with Chapter 6, Part III of this ACOP.

## **PART IV: CALCULATING RENT**

### **6-IV.A. OVERVIEW OF INCOME-BASED RENT CALCULATIONS**

The first step in calculating income-based rent is to determine each family's total tenant payment (TTP). Then, if the family is occupying a unit that has resident-paid utilities, the utility allowance is subtracted from the TTP. The result of this calculation, if a positive number, is the tenant rent. If the TTP is less than the utility allowance, the result of this calculation is a negative number, and is called the utility reimbursement, which may be paid to the family or directly to the utility company by DHC.

#### **TTP Formula**

TTP is the highest of the following amounts, rounded to the nearest dollar:

30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)

10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)

The welfare rent (in as-paid states only)

A minimum rent between \$0 and \$50 that is established by DHC.



DHC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

### **Welfare Rent**

Welfare rent does not apply in Michigan.

### **Minimum Rent**

The minimum rent for DHC is \$50.

### **Optional Changes to Income-Based Rents**

DHC has been given very broad flexibility to establish its own, unique rent calculation systems as long as the rent produced is not higher than that calculated using the TTP and mandatory deductions. DHC shall provide for each family residing in a public housing unit to elect annually whether the rent paid by such family shall be 1) determined based on family income, or 2) the flat rent. DHC may not at any time fail to provide both such rent options for any public housing unit owned, assisted or operated by DHC.

### **Ceiling Rents**

Ceiling rents are used to cap income-based rents. They are part of the income-based formula. If the calculated TTP exceeds the ceiling rent for the unit, the ceiling rent is used to calculate tenant rent (ceiling rent/TTP minus utility allowance). Increases in income do not affect the family since the rent is capped. The use of ceiling rents fosters upward mobility and income mixing.

Because of the mandatory use of flat rents, the primary function of ceiling rents now is to assist families who cannot switch back to flat rent between annual reexaminations and would otherwise be paying an income-based tenant rent that is higher than the flat rent.

Ceiling rents must be set to the level required for flat rents (which will require the addition of the utility allowance to the flat rent for properties with tenant-paid utilities).

DHC chooses to use ceiling rents.

### **Utility Reimbursement**

Utility reimbursement occurs when any applicable utility allowance for resident-paid utilities exceeds the TTP.

DHC will pay any utility reimbursements directly to the family.

## **6-IV.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT**

### **Overview**

DHC has established a minimum rent of \$50.00. DHC will 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 TTP is the highest of the remaining components of the family's calculated TTP. **Financial Hardship Defined**

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a 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 (1) implementation of assistance, if approved, or (2) the decision to deny assistance. A family whose request for assistance is denied may request a hardship exemption based upon one of the other allowable hardship circumstances.

(2) The family would be evicted because it is unable to pay the minimum rent.

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent or resident-paid utilities.

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

(4) A death has occurred in the family.

In order to qualify under this provision, a family must describe how the death has created a financial hardship, e.g., because of funeral-related expenses or the loss of the family member's income.

(5) The family has experienced other circumstances as determined by DHC.

## **Implementation of Hardship Exemption**

### **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 then determines 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.

DHC may not evict the family for non-payment of minimum rent during the 90-day period beginning the month following the family's request for a hardship exemption.

When the minimum rent is suspended, the TTP reverts to the highest of the remaining components of the calculated TTP. 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.

### **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.

For procedures pertaining to grievance hearing requests based upon DHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

The family must repay the suspended amount within 30 calendar days of DHC's notice that a hardship exemption has not been granted.

### **Temporary Hardship**

If DHC determines that a qualifying financial hardship is temporary, DHC must reinstate the minimum rent from the beginning of the first of the month following the date of the family's request for a hardship exemption.

The family must resume payment of the minimum rent and must repay DHC the amounts suspended. DHC may also determine that circumstances have changed, and the hardship is now a long-term hardship.

For procedures pertaining to grievance hearing requests based upon DHC's denial of a hardship exemption, see Chapter 14, Grievances and Appeals.

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. (see Chapter 16).

### **Long-Term Hardship**

If DHC determines that the financial hardship is long-term, DHC must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

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

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.

(2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.

(3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## **6-IV.C. UTILITY ALLOWANCES**

### **Overview**

Utility allowances are provided to families paying income-based rents when the cost of utilities is not included in the rent. When determining a family's income-based rent, DHC must use the utility allowance applicable to the type of dwelling unit leased by the family.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation**

On request from a family, DHC may approve a utility allowance that is higher than the applicable amount for the dwelling unit if a higher utility allowance is needed as a reasonable accommodation to make the program accessible to and usable by the family with a disability.

Residents with disabilities may not be charged for the use of certain resident-supplied appliances if there is a verified need for special equipment because of the disability.

See Chapter 2 for policies related to reasonable accommodations.

### **Utility Allowance Revisions**

DHC must review its schedule of utility allowances each year. Between annual reviews,

DHC must revise the utility allowance schedule if there is a rate change that by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which such allowances were based. Adjustments to resident payments as a result of such changes must be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective. The tenant rent calculations must reflect any changes in DHC's utility allowance schedule.

Revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

#### **6-IV.D. PRORATED RENT FOR MIXED FAMILIES**

HUD regulations prohibit assistance to ineligible family members. A mixed family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. DHC must pro-rate the assistance provided to a mixed family. DHC will first determine TTP as if all family members were eligible and then pro-rate the rent based upon the number of family members that actually are eligible. To do this, DHC must:

- (1) Subtract the TTP from the flat rent applicable to the unit. The result is the maximum subsidy for which the family could qualify if all members were eligible.
- (2) Divide the family maximum subsidy by the number of persons in the family to determine the maximum subsidy per each family member who is eligible (member maximum subsidy).
- (3) Multiply the member maximum subsidy by the number of eligible family members.
- (4) Subtract the subsidy calculated in the last step from the flat rent. This is the prorated TTP.
- (5) Subtract the utility allowance for the unit from the prorated TTP. This is the prorated rent for the mixed family.

Revised public housing maximum rents will be applied to a family's rent calculation at the first annual reexamination after the revision is adopted.

- (6) When the mixed family's TTP is greater than the applicable flat rent, use the TTP

as the prorated TTP. The prorated TTP minus the utility allowance is the prorated rent for the mixed family.

## **6-IV.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

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.

### **Family Choice in Rents**

Once each year, DHC must offer families the choice between a flat rent and an income-based rent. The family may not be offered this choice more than once a year.

The annual DHC offer to a family of the choice between flat and income-based rent will be

conducted upon admission and upon each subsequent annual reexamination.

DHC will require families to submit their choice of flat or income-based rent in writing and will maintain such requests in the resident file as part of the admission or annual reexamination process.

DHC must provide sufficient information for families to make an informed choice. This information must include DHC's policy on switching from flat rent to income-based rent due to financial hardship and the dollar amount of the rent under each option. However, if the family chose the flat rent for the previous year DHC is required to provide an income-based rent amount only in the year that a reexamination of income is conducted or if the family specifically requests it and submits updated income information.

### **Switching from Flat Rent to Income-Based Rent Due to Hardship**

A family can opt to switch from flat rent to income-based rent at any time if they are unable to pay the flat rent due to financial hardship. If DHC determines that a financial hardship exists, DHC must immediately allow the family to switch from flat rent to the income-based rent.

Upon determination by DHC that a financial hardship exists, DHC will allow a family to switch from flat rent to income-based rent effective the first of the month following the family's request. Reasons for financial hardship include:

The family has experienced a decrease in income because of changed circumstances, including loss or reduction of employment, death in the family, or reduction in or loss of earnings or other assistance;

The family has experienced an increase in expenses, because of changed circumstances for medical costs, child care, transportation, education, or similar items; or

Such other situations determined by DHC to be appropriate.

DHC considers payment of flat rent to be a financial hardship whenever the switch to income-based rent would be lower than the flat rent.

### **Phasing in Flat Rents**



When new flat rents requirements were implemented in 2014, HUD limited the increase for existing residents paying flat rent at that time to no more than 35 percent of the current tenant rent per year. In some cases, this meant that some residents had or will have their flat rents phased-in at the time of their annual recertification. To do this, DHC must conduct a flat rent impact analysis to determine whether a phase-in is or was necessary. For families whose flat rent is being phased-in, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies. Families who have subsequently been admitted to the program or have subsequently selected flat rent will not experience a phase-in.

Notice PIH 2015-13 requires that flat rents must be phased in at the full 35 percent per year. DHC does not have the option of phasing in flat rent increases at less than 35 percent per year.

### **Flat Rent Impact Analysis Calculation**

In order to conduct a flat rent impact analysis, DHC must multiply the family's current rent amount by 1.35 and compare the result to the flat rent under DHC's policies.

Example: A family was paying a flat rent of \$500 per month. At their annual recertification, DHC has increased the flat rent for their unit size to \$700. DHC would conduct a flat rent impact analysis as follows:

$$\$500 \times 1.35 = \$675$$

Since DHC's increased flat rent of \$700 would result in a rent increase of more than 35 percent, DHC would offer the family the choice to pay either \$675 per month or an income-based rent. The flat rent increase would need to be phased in.

DHC will conduct a flat rent impact analysis to determine the percentage increase in the family's rent amount. If the increase is greater than 35 percent, DHC will phase in the rent increase at the maximum amount annually over a three-year period so that it does not exceed 35 percent in any year until the flat rent is fully phased in. If the increase is 35 percent or less, there will be no phase-in.

## **Flat Rents and Earned Income Disallowance**

Because the EID is a function of income-based rents, a family paying flat rent cannot qualify for the EID even if a family member experiences an event that would qualify the family for the EID. If the family later chooses to pay income-based rent, they would only qualify for the EID if a new qualifying event occurred.

Under the EID original calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent as long as the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

Under the EID revised calculation method, a family currently paying flat rent that previously qualified for the EID while paying income-based rent and is currently within their exclusion period would have the exclusion period continue while paying flat rent regardless whether the employment that is the subject of the exclusion continues. A family paying flat rent could therefore see a family member's exclusion period expire while the family is paying flat rent.

## **Chapter 7: VERIFICATION**

### **INTRODUCTION**

DHC must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain the family's consent to collect the information. Applicants and residents must cooperate with the verification process as a condition of receiving assistance. DHC must not pass on the cost of verification to the family.

This chapter summarizes DHC's verification policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies established by DHC.

## **PART I: GENERAL VERIFICATION REQUIREMENTS**

### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION**

The family must supply any information that the DHC determines is necessary to the administration of the program and must consent to DHC's verification of that information.

#### **Consent Forms**

All adult applicants and residents must 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. DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

#### **Form HUD 9886**

All adult applicants and tenants must sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next

interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and DHC may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

DHC may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act ([12 U.S.C. 3401](#)), whenever DHC determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to DHC to revoke consent.

### **Penalties for Failing to Consent**

If any family member who is required to sign a consent form fails to do so, DHC will deny admission to applicants and terminate the lease of residents. The family may request a hearing in accordance with DHC's grievance procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

DHC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with DHC policy.

In order for a family to revoke their consent, the family must provide written notice to DHC. Within 10 business days of the date the family provides written notice, DHC will send the

family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, DHC will notify the local HUD office.

## **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **The Verification Hierarchy**

DHC will use the most reliable form of verification that is available and will document the reasons when it uses a lesser form of verification.

In order of priority, the forms of verification that DHC will use are:

Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system

Up-front Income Verification (UIV) using a non-HUD system

Written Third-Party Verification which may be provided by applicant or resident

Written Third-Party Verification Form

Oral Third-Party Verification

Self-Certification

Each of the verification methods is discussed in subsequent sections below.

### **Requirements for Acceptable Documents**

Any documents used for verification must be the original, not photocopies, deemed by DHC as an authentic document, and generally must be dated within 60 days preceding the reexamination or DHC request date. The documents must not be damaged, altered or in any way illegible. Any documents used for verification for admissions or recertifications will be considered current for 90 days from the date of receipt.

Verifications may be extended for an additional 30 days with a telephone update. (A record of the update, including the name and title of the individual contacted, must be placed in the applicant's file.) Verified information not subject to change (such as a person's date and place of birth) need not be re-verified. Information obtained that is

subject to change, and for which verifications are more than 90 days old, should be reverified.

Print-outs from web pages may be considered original documents.

A DHC staff member who views the original document must make a photocopy and annotate the copy with the name of the person who provided the document and the date the original was viewed.

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

### **File Documentation**

DHC must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that DHC has followed all of the verification policies set forth in this ACOP. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

DHC will document, in the family file, the following:

Reported family annual income

Value of assets

Expenses related to deductions from annual income

Other factors influencing the adjusted income or income-based rent determination

At the time DHC accepts a self-certification because it is unable to obtain third-party verification, DHC will document in the family file the reason that third-party verification was not available.

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

Up-front income verification (UIV) refers to DHC's use of the verification tools available

from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to DHC.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until DHC has independently verified the UIV information and the family has been granted the opportunity to contest any adverse findings through DHC's informal review/hearing processes. For more on UIV and income projection, see section 6-I.C.

### **Up-front Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for resident families. HUD requires DHC to use the EIV system in its entirety. The following policies apply to the use of the EIV system.

#### **EIV Income Reports**

The data shown on income reports is updated quarterly. Data may be between three and six months old at the time reports are generated.

EIV income reports will be generated as part of the regular reexamination process.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6.I.C. Income reports may also be used to meet the regulatory requirement for third-party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in Chapter 6.I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in resident files with the applicable annual or interim reexamination documents.

EIV Income Reports must be generated for each annual and interim reexamination performed. A hard copy of the EIV Income Report, EIV Summary Report, and Certification Page must be placed in the resident file with the reexamination documentation. The Certification Page must be signed and dated by both a DHC representative and the adult household members.

For each new admission (form HUD-50058 action type 1), DHC is required to do the following:

Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and

Print and maintain a copy of the EIV Income Report in the resident file; and

Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

For each historical adjustment (form HUD-50058 action type 14), DHC is required to do the following:

Review the EIV Income Report to confirm/validate family-reported income within 120 days of the PIC submission date; and

Print and maintain a copy of the EIV Income Report in the resident file; and

Resolve any income discrepancy with the family within 60 days of the EIV Income Report date.

For each interim reexamination (form HUD-50058 action type 3) of family income and composition, DHC is required to have the following documentation in the resident file:

ICN Page - when there is no household income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report. DHC has the discretion to print the EIV Income report although only the ICN page is required.



EIV Income Report - when there is an income discrepancy noted on the household's Income Discrepancy Report tab or Income Discrepancy Report.

For each annual reexamination of family income and composition, DHC is required to have the following documentation in the resident file:

No Dispute of EIV Information - EIV Income Report, current acceptable resident-provided documentation, and if necessary, as determined by DHC, traditional third- party verification form(s).

Disputed EIV Information - EIV Income report, current acceptable tenant provided documentation, and/or traditional third- party verification form(s) for disputed information.

Resident-reported income not verifiable through EIV system - Current resident-provided documents, and if necessary, as determined by the DHC, traditional third- party verification form(s).

When DHC determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

### **EIV Discrepancy Reports**

When DHC determines that a resident appearing on the Income Discrepancy Report has not concealed or under-reported income, the resident's name will be placed on a list of "false positive" reviews. To avoid multiple reviews in this situation, residents appearing on this list will be eliminated from discrepancy processing until a subsequent interim or annual reexamination has been completed. DHC will review the EIV discrepancy tab during processing of annual and interim reexaminations.

When it appears that a family may have concealed or under-reported income, DHC will request independent written third-party verification of the income in question.

When DHC determines through file review and independent third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 15, Program Integrity.

## **EIV Identity Verification**

The EIV system verifies resident identities against Social Security Administration (SSA) records. These records are compared to Public and Indian Housing Information Center (PIC) data for a match on social security number, name, and date of birth. DHC will identify residents whose identity verification has failed by reviewing EIV's

Identity Verification Report at least on a monthly basis. DHC will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the resident.

When DHC determines that discrepancies exist as a result of DHC errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

## **Upfront Income Verification Using Non-HUD Systems (Optional)**

DHC will inform all applicants and residents that it may use non-HUD systems to which DHC to perform up-front income verification.

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

There are two types of written third-party verification. The more preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to DHC by the family. If written third-party verification is not available, DHC may attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third-party.

### **Written Third-Party Verification**

Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

Examples of acceptable resident-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

DHC is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

DHC may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

Generally, third-party documents provided by the family must be dated within 60 days of DHC's request date. If DHC uses actual past income in determining annual income, the documents provided by the family may be dated outside of 60 days of DHC's request date.

If DHC determines that third-party documents provided by the family are not acceptable, DHC will explain the reason to the family and request additional documentation.

As verification of earned income, DHC may request pay stubs covering the 60-day period prior to DHC's request. When DHC uses actual past income in determining annual income, documents may be more than 60 days old (e.g., EIV Income Reports, W-2s, etc.).

### **Written Third-Party Verification Form**

When up-front verification is not available and the family is unable to provide written third-party documents, DHC may request a written third-party verification form.

A written third-party verification form is mandatory when there is an unreported source of income or a substantial difference in reported income of \$2,400 annually or more and there is no UIV or resident-provided documentation to support the income discrepancy.

DHC may mail, fax, or e-mail third-party written verification form requests to third-party sources.

DHC will send third-party verification forms directly to the third-party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by DHC.

### **Oral Third-Party Verification**

Oral third-party verification is mandatory if neither form of written third-party verification is

available.

For third-party oral verification, DHC will contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time, e.g., 15 business days.

In collecting third-party oral verification, DHC staff will record in the family's file the name and title of the person contacted, the date and time of the conversation, or attempt, the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification HC will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

### **When Third-Party Verification is Not Required**

If the family cannot provide original documents, the 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. DHC is not required to verify fully-excluded income.

### **Primary Documents**

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### **Imputed Assets**

DHC may accept a self-certification from the family as verification of assets disposed of for less than fair market value.

### **Value of Assets and Asset Income**

For families with net assets totaling \$5,000 or less, DHC will accept the family's self-

certification of the value of family assets and anticipated asset income when applicable.

The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

DHC will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

### **7-I.E. SELF-CERTIFICATION**

When HUD requires third-party verification, self-certification, or "resident declaration," is used as a last resort when DHC is unable to obtain third-party verification.

Self-certification, however, is an acceptable form of verification when:

A source of income is fully excluded

Net family assets total \$5,000 or less and DHC has adopted a policy to accept self-certification at annual recertification, when applicable

DHC has adopted a policy to implement streamlined annual recertifications for fixed sources of income (See Chapter 9)

When information cannot be verified by a third-party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to DHC.

DHC may require a family to certify that a family member does not receive a particular type of income or benefit.

DHC may allow households to self-certify as to having net family assets of less than \$5,000, and the amount of income expected to be received from those assets. In these cases, DHC is not required 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.

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.

When DHC was required to obtain third-party verification but instead relies on a resident declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available, except in cases when DHC is not required to document same in the resident file.

#### **7-I.F. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs. Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the

family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

When available and applicable, DHC will accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income. DHC will still require third-party verification of all deductions such as the health and medical care expense or child care expense deductions. Further, if the family is eligible for and claims the disability assistance expense or child care expense deductions, where applicable, DHC will obtain third-party verification of the amount of employment income of the individual(s) enabled to work in order to cap the respective expenses as required.

Prior to using any Safe Harbor determination from another program, DHC will ask the

family if they agree with the income amounts listed. If the family disputes the income amounts on the Safe Harbor determination, DHC will obtain third-party verification of all sources of income and assets (as applicable).

DHC will not accept other programs' determinations of income for any new admission or interim reexamination.

With the exception of income determinations made under the Low-Income Housing Tax Credit (LIHTC) program, DHC will accept Safe Harbor determinations from any of the programs listed above.

In order to be acceptable, the income determination must:

- Be dated within 12 months of the dates listed above;

- State the family size;

- Be for the entire family (i.e., the family members listed in the documentation must match the family's composition in the assisted unit, except for household members); and

- Must state the amount of the family's annual income.

The determination need not list each source of income individually. If DHC does not receive any acceptable income determination documentation or is unable to obtain documentation, then DHC will revert to third-party verification of income for the family.

When families present multiple verifications from the same or different acceptable Safe Harbor programs, DHC will use the most recent income determination, unless the family presents acceptable evidence that DHC should consider an alternative verification from a different Safe Harbor source.

When the PHA uses a Safe Harbor income determination from another program, and the family's income subsequently changes, the family is required to report the change to the PHA. Depending on when the change occurred, the change may or may not impact the PHA's calculation of the family's total annual income. Changes that occur between the time the PHA receives the Safe Harbor documentation and the effective date of the family's annual reexam will not be considered. If the family has a change in income that occurs after the annual reexam effective date, DHC will conduct an interim reexam if the change meets the requirements for performing an interim reexamination as outlined in Chapter 9. In this case, DHC will use third-party verification to verify the change.

## **7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c);**

### **Notice PIH 2023-27]**

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 other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.



Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

When DHC does not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above, then DHC will use a streamlined income determinations where applicable.

If 90 percent or more of a family's unadjusted income is from fixed income sources:

DHC will streamline the annual reexamination process by applying the verified inflationary adjustment factor to fixed-income sources.

The family will be required to sign a self-certification stating that 90 percent or more of their unadjusted income is fixed income and that their sources of fixed income have not changed from the previous year.

DHC will document in the file how the determination that a source of income was fixed was made.

Third-party verification of non-fixed income will be obtained annually regardless of the percentage of family income received from fixed sources.

If the family's sources of fixed income have changed from the previous year, DHC will obtain third-party verification of any new sources of fixed income.

When less than 90 percent of a family's unadjusted income consists of fixed income:

DHC will apply a COLA to each of the family's sources of fixed income.

All other income will be verified using third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy.

In the following circumstances, regardless of the percentage of income received from fixed sources, DHC will obtain third-party verification as outlined in Notice PIH 2023-27 and Chapter 7 of this policy:

Of all assets when net family assets exceed \$50,000;

Of all deductions and allowances from annual income;

If a family member with a fixed source of income is added;

If verification of the COLA or rate of interest is not available;  
During the intake process and at least once every three years thereafter.

## **PART II: VERIFYING FAMILY INFORMATION**

### **7-II.A. VERIFICATION OF LEGAL IDENTITY**

DHC will require families to furnish verification of legal identity for each household member.

Legal identity will be verified on an as needed basis.

### **7-II.B. SOCIAL SECURITY NUMBERS**

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing residents who were at least 62 years of age as of January 31, 2010 and had not previously disclosed an SSN. DHC must accept the following documentation as acceptable evidence of the SSN:

An original SSN card issued by the Social Security Administration (SSA);

An original SSA-issued document, which contains the name and SSN of the individual;

An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual, along with other identifying information of the individual; or Such other evidence of the SSN as HUD may prescribe in administrative instructions.

DHC may reject documentation of a SSN provided by an applicant or resident if the document is not an original document, if the original document has been altered, mutilated, or is not legible, or if the document appears to be forged.

DHC will explain to the applicant or resident the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DHC within 90 days.

If an applicant family includes a child under 6 years of age who joined the household

within the 6 months prior to the date of program admission, an otherwise eligible family may be admitted and must provide documentation of the child's SSN within 90 days. A 90-day extension will be granted if DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control.

DHC will grant one additional 90-day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

When the resident requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has a SSN, the resident must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. DHC may not add the new household member until such documentation is provided.

When a resident request to add a new household member who is under the age of 6 and has not been assigned a SSN, the resident must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if DHC determines that the resident's failure to comply was due to unforeseen circumstances and was outside of the resident's control. During the period DHC is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

DHC will grant one additional 90-day extension if needed for reasons beyond the resident's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

The SSN must be verified only once during continuously-assisted occupancy.

DHC will verify each disclosed SSN by:

Obtaining documentation from applicants and residents that is acceptable as evidence of social security numbers

Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder

Once an individual's status is classified as "verified" in EIV, DHC may remove and destroy copies of documentation accepted as evidence of SSNs.

### **7-II.C. DOCUMENTATION OF AGE**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, DHC will require the family to submit other documents that support the reported age of the family member such as school records, driver's license (if birth year is recorded), and to provide a self-certification.

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

### **7-II.D. FAMILY RELATIONSHIPS**

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

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

#### **Marriage**

Verification of marriage status is a marriage license.

#### **Separation or Divorce**

Verification of divorce status will be by certified or true copy of the divorce decree signed by a court officer.

Verification of separation will be by certified or true copy of the separate maintenance decree signed by a court officer.

If no court document is available, documentation from a community-based agency will be accepted.

### **Absence of Adult Member**

If an adult who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family, e.g., documentation of another address at which the person resides such as a lease or utility bill.

### **Foster Children and Foster Adults**

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

## **7-II.E. VERIFICATION OF STUDENT STATUS**

DHC requires families to provide information about the status of all students who are 18 years of age or older. This information will be verified only if:

The family claims full-time student status for an adult other than the head of household, spouse, or co-head, or

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

## **7-II.F. DOCUMENTATION OF DISABILITY**

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. 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 resident file. Under no circumstances will DHC request a resident's medical record(s). DHC may make the following inquiries, provided it makes them of all applicants, whether or not they are persons with disabilities:

Inquire into an applicant's ability to meet the requirements of ownership or tenancy;

Inquire 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;

Inquire 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;

Inquire about whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or

Inquire about whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

### **Family Members Receiving SSA Disability Benefits**

Verification of receipt of disability benefits from the Social Security Administration (SSA) is sufficient for verification of disability for the purpose of qualification for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who receive disability payments from the SSA, DHC will first attempt to obtain information about disability benefits through EIV. If documentation is not available through EIV, DHC will request a current, i.e., dated within the last 60 days, SSA benefit verification letter from each family member claiming disability status. If a family member is unable to provide the document, DHC will ask the family to obtain a benefit verification letter. The family must provide the benefit verification letter to DHC.

### **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 the definition of disability necessary to qualify for waiting list preferences or certain income disallowances and deductions.

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability (see Chapter 3 for the definition of

disability). The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Pro-rated assistance is provided for "mixed families" containing both eligible and ineligible persons (see Chapter 3 for detailed discussion of eligibility requirements; Chapter 7 discusses DHC verification requirements related to citizenship status).

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible 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 occupancy.

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

DHC requires a declaration, under penalty of perjury, for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

DHC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless DHC receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### **Documents Required**

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible non-citizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

### **DHC Verification**

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this ACOP. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, DHC must verify immigration status with the U.S. Citizenship and Immigration Services (USCIS).

DHC will follow all USCIS protocols for verification of eligible immigration status.

### **7-II.H. VERIFICATION OF PREFERENCE STATUS**

DHC must verify any preferences claimed by an applicant.

DHC offers a preference for families displaced by a Federally-declared disaster occurring after July 1, 2005, described in Section 4-III.B. A Family that claims it is being or has been displaced due to such a disaster must provide written verification. DHC may also seek third-party verification from an agency or other professional declared by the family as being knowledgeable of the family's displacement due a Federally-declared disaster.

For families which claim to be eligible for the elderly preference, the family must provide documentation which verifies that the head of household, spouse or co-head is at least 62 years of age, in accordance with Section 7-II.C of this ACOP.

For families which claim to be eligible for the disabled preference, the family must provide documentation which verifies that the head of household spouse or co-head is disabled. Depending on the documentation provided, DHC may seek to obtain additional documentation to verify that the family meets the disabled preference, in accordance with Section 7-II.F of this ACOP.

## **PART III: VERIFYING INCOME AND ASSETS**



Chapter 6, Part I of this ACOP describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides DHC policies that supplement the general verification procedures specified in Part Me of this chapter.

### **7-III.A. EARNED INCOME**

#### **Tips**

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year. DHC may use actual past income from tips in determining annual income.

### **7-III.B. BUSINESS AND SELF-EMPLOYMENT INCOME**

Business owners and self-employed persons will be required to provide:

An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy. All schedules completed for filing federal and local taxes in the preceding year.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

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

At any reexamination DHC may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, DHC may accept the family member's certified estimate of income and schedule an interim reexamination

in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DHC will require the family to provide documentation of income and expenses for this period and use that information to project income.

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

#### **Social Security/SSI Benefits**

To verify the SS/SSI benefits of applicants, DHC may request a current, i.e., dated within the last 60 days, SSA benefit verification letter from each family member who receives social security benefits. If a family member is unable to provide the document, DHC may help the applicant request a benefit verification letter or ask the family to request one by calling SSA. Once the family has received the original benefit verification letter, it will be required to provide the letter to DHC.

To verify the SS/SSI benefits of residents, DHC will obtain information about social security/SSI benefits through EIV and confirm with the resident(s) that the current listed benefit amount is correct. If the resident disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, DHC will request a current SSA benefit verification letter from each family member that receives social security benefits. If a family member is unable to provide the document, DHC may help the resident request a benefit verification letter or ask the family to request one. Once the family has received the benefit verification letter, it will be required to provide the letter to DHC.

DHC may use other verification methods to conduct a streamlined reexamination of income for elderly and disabled families when 100% of the family's income consists of fixed income.

### **7-III.D. ALIMONY OR CHILD SUPPORT**

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

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

Copy of the receipts and/or payment stubs for the 60 days prior to DHC's request, except

in cases when HUD authorizes use of actual past income in determining annual income from alimony or child support, where the receipts and/or payment stubs may be for periods outside the 60 days as described in this paragraph. Third-party verification form from the state or local child support enforcement agency. Third-party verification form from the person paying the support.

Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

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

If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts. Note: Families are not required to undertake independent enforcement action.

### **7-III.E. ASSETS AND INCOME FROM ASSETS**

#### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. DHC needs to verify only those certifications that warrant documentation.

DHC will verify the value of assets disposed of only if:

DHC does not already have a reasonable estimation of its value from previously collected information, or The amount reported by the family in the certification appears obviously in error.

### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

The family must provide:

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

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, DHC will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.G. RETIREMENT ACCOUNTS**

DHC will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status:

Before retirement, DHC will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than six (6) months from the effective date of the examination.

Upon retirement, DHC will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, DHC will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.H. INCOME FROM EXCLUDED SOURCES**

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

DHC may 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 require third-party verification of the amount earned. 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's rent as is the case with the earned income disallowance. In all other cases, DHC will report the amount to be excluded as indicated on documents provided by the family, except in cases where DHC does not have to verify nor report excluded income.

### **7-III.I. ZERO ANNUAL INCOME STATUS**

DHC will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by families claiming to have zero annual income.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.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.

#### **Dependent Deduction**

See Chapter 6 (6-II.B.) for a full discussion of this 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.

#### **Elderly/Disabled Family Deduction**

See the Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6-

II.C.) for a discussion of the deduction. DHC will verify that the head of household, spouse, or co-head is 62 years of age or older or a disabled person.

## **7-IV.B. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts. DHC will make a 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.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

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

In addition, DHC must verify that the household is eligible for the deduction.

The costs to be deducted are qualified medical expenses.

The expenses are not paid for or reimbursed by any other source. Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head of household, spouse, or co-head is at least 62 or a disabled person. DHC will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter, and as described in Chapter 7 (7-IV.A) of this ACOP.

### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for DHC's policy on what counts as a medical expense.

### **Unreimbursed Expenses**

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

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

### **Expenses Incurred in Past Years**

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

The anticipated repayment schedule;

The amounts paid in the past; and

Whether the amounts to be repaid have been deducted from the family's annual income in past years.

## **7-IV.C. DISABILITY ASSISTANCE EXPENSES**

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

DHC will accept written third-party documents provided by the family.

If family-provided documents are not available, DHC will provide a third-party verification form directly to the care provider requesting the needed information.

### **Amount of Expense**

#### **Attendant Care**

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts or cancelled checks.

Third-party verification form signed by the provider, if family-provided documents are not available.

If third-party verification is not possible, written family self-certification as to costs anticipated to be incurred for the upcoming 12 months.

### **Auxiliary Apparatus**

Expenses for auxiliary apparatus will be verified through:

Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.

Third-party verification form signed by the provider, if family-provided documents are not available.

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

In addition, DHC must verify that the family member for whom the expense is incurred is a disabled person (as described in 7-II.F above).

The expense permits a family member, or members, to work (as described in 6-II.E.).

The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a disabled person. DHC will verify that the expense is incurred for a disabled person (See 7-II.F.).

### **Family Member(s) Permitted to Work**

DHC must verify that the expenses claimed actually enable a family member, or members, including the disabled person, to work.



DHC will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the disabled person requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must self-certify that the disability assistance expense frees a family member, or members, possibly including the family member receiving the assistance, to work.

### **Unreimbursed Expenses**

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

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.

## **7-IV.D. CHILD CARE EXPENSES**

Policies related to child care expenses are found in Chapter 6 (6-II.F). The amount of the deduction will be verified following the standard verification procedures described in Part I. In addition, DHC must verify that:

The child is eligible for care.

The costs claimed are not reimbursed.

The costs enable a family member to pursue an eligible activity.

The costs are for an allowable type of child care.

The costs are reasonable.

### **Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of 13. DHC will verify that the child being cared for, including foster

children is under the age of 13 (See 7-II.C.).

### **Unreimbursed Expense**

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

The family will be required to self-certify that the child care expenses are not paid by or reimbursed to the family from any source.

### **Pursuing an Eligible Activity**

DHC must verify that the family member(s) identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

### **Information to be Gathered**

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.

### **Seeking Work**

Whenever possible, DHC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases DHC will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to DHC any reports provided by the other agency. In the event third-party verification is not available, DHC will provide the family with a form on which the family member must record job search efforts. DHC will review this information at each subsequent reexamination for which this deduction is claimed.

### **Furthering Education**

DHC will request third-party documentation to verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the

family.

### **Gainful Employment**

DHC will seek third-party verification of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family but must fall within certain guidelines, as discussed in Chapter 6. DHC will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

DHC will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., pro-rate costs if some of the care is provided for ineligible family members).

DHC will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with typical costs in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the locality, DHC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## **CHAPTER 8: LEASING AND INSPECTIONS**

### **INTRODUCTION**

DHC's leases are the basis of the legal relationship between the DHC and the resident. All units must be occupied pursuant to a dwelling lease that complies with HUD's regulations.

HUD rules also require DHC to inspect each dwelling unit prior to move-in, at move-out, and annually during occupancy. In addition, DHC may require additional inspections in accordance with DHC policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and DHC's policies pertaining to lease execution, modification, and payments under the lease.

Part II: Inspections. This part describes DHC's policies for inspecting dwelling units.

### **PART I: LEASING**

#### **8-I.A. OVERVIEW**

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that DHC may not renew the lease if the family has violated the community service requirement.

Part I of this chapter contains regulatory information, when applicable, as well as DHC's policies governing leasing issues.

VAWA 2022 expanded notification requirements to include the obligation for PHAs to provide families who are admitted to the program a notice of rights.

## **8-I.B. LEASE ORIENTATION**

After unit acceptance but before occupancy, a DHC representative will provide a lease orientation to the family. The head of household and co-head or spouse is required to attend.

### **Orientation Agenda**

When families attend the lease orientation, they will be provided with:

A copy of the lease;

A copy of DHC's grievance procedure;

A copy of DHC's schedule of maintenance charges;

A copy of the pamphlet "Protect Your Family From Lead in Your Home;"

A copy of HUD's "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system;

A copy of "Debts Owed to Public Housing Agencies and Terminations" (Form HUD52675), which explains that HUD maintains a national repository of debts owed to any public housing agencies or Section 8 landlords and adverse information of former participants who have voluntarily or involuntarily terminated participation in the public housing or the Section 8 program and DHC's obligation to report debts owed to it and adverse information of former residents and/or participants to HUD via its EIV System; A copy of the form HUD 5380 VAWA notice of occupancy rights (see section 16-VII.C);

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking

A copy of the DHC's Smoke Free Policy; and

And other documents DHC deem relevant to occupancy in DHC's developments.

## **8-I.C. EXECUTION OF LEASE**

A lease is executed at the time of admission for all new residents. A new lease is also

executed at the time of transfer from one DHC unit to another DHC unit.

The lease must state the composition of the household as approved by DHC (family members and any DHC-approved live-in aide). See Section 8-I.D. for policies regarding changes in family composition during the lease term.

The head of household, spouse or co-head, and all other adult members of the household must sign the lease before admission. An appointment will be scheduled for the parties to execute the lease. The head of household will be provided a copy of the executed lease and DHC will retain the original executed lease in the family's file.

Files for households that include a live-in aide will contain file documentation signed by the live-in aide that the live-in aide is not a party to the lease and is not entitled to DHC assistance. The live-in aide is only approved to live in the unit while serving as the attendant for the disabled family member.

## **8-I.D. MODIFICATIONS TO THE LEASE**

### **Modifications to the Lease Form**

The lease may be modified at any time by written agreement of the resident and DHC.

DHC may modify its lease from time to time. However, DHC must give residents 30 days advance notice of the proposed changes and an opportunity to comment on the changes. DHC must also consider any comments before formally adopting the modification.

The family will have 30 days to accept the revised lease. If the family does not accept the offer of the revised lease within that 30 day timeframe, the family's tenancy will be terminated for other good cause in accordance with the policies in Chapter 13.

The Schedule of Resident Charges, the Supplemental ACOP Policies, and rules and regulations are incorporated into the lease by reference and are subject to modification or revision. Residents and resident organizations must be provided at least 30 days written notice of the reason(s) for any proposed modifications or revisions, and must be given an opportunity to present written comments. The notice must be delivered directly or mailed to each resident, or posted in at least three conspicuous places within each

structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project. Comments must be taken into consideration before any proposed modifications or revisions become effective.

After the proposed revisions become effective, they must be publicly posted in a conspicuous manner in the development's management office and must be furnished to applicants and residents.

Documentation of proper notice will be included in each resident file.

### **Other Modifications**

The lease will be amended to reflect all changes in family composition.

If, for any reason, any member of the household ceases to reside in the unit, the lease will be amended by drawing a line through the person's name. The head of household and DHC will be required to initial and date the change.

If a new household member is approved by DHC to reside in the unit, the person's name and birth date will be added to the lease. The head of household and DHC will be required to initial and date the change. If the new member of the household is an adult, s/he will also be required to sign and date the lease.

Policies governing when and how changes in family composition must be reported are contained in Chapter 9, Reexaminations.

### **8-I.E. SECURITY DEPOSITS**

Residents must pay a security deposit to DHC equal to the family's Total Tenant Payment or \$100.00, whichever is lower, at the time of admission. The Executive Director or designee may waive a family's security deposit depending on a family's financial circumstances.

DHC will hold the security deposit for the period the family occupies the unit. DHC will not use the security deposit for rent or other charges while the resident is living in the unit.

Within 30 days of move-out, DHC will refund to the resident the amount of the security deposit, less any amount needed to pay the cost of unpaid rent, damages listed on the move-out inspection report that exceed normal wear and tear, and other charges due under the lease.

DHC will provide the resident with a written list of any charges against the security deposit within 15 business days of the move-out inspection. If the resident disagrees with the amount charged, DHC will provide a meeting to discuss the charges.

If the resident transfers to another unit, DHC will transfer the security deposit to the new unit. The resident will be billed for any maintenance or other charges due for the “old” unit.

## **8-I.F. PAYMENTS UNDER THE LEASE**

### **Rent Payments**

The lease must specify the initial amount of the tenant rent at the beginning of the initial lease term, and DHC must give written notice stating any change in the amount of tenant rent and when the change is effective. The tenant rent is due and payable at the DHC-designated location on the first calendar day of every month. If the first falls on a weekend or holiday, the rent is due and payable on the first business day thereafter.

Rent is considered late when not paid by the due date. The Executive Director or designee may waive up to one month’s rent in certain instances such as concessions or in the event of DHC error that may result in hardship on the family.

If a family’s tenant rent changes, DHC will notify the family of the new amount and the effective date by sending a Notice of Rent Adjustment.

### **Late Fees and Non-payment**

DHC’s grace period for payment is from the 2nd calendar day of the month to the 15th calendar day of the month. No late fees will be charged during the grace period. If the Resident fails to make payment by the end of the grace period, a late fee of \$100 will be



charged.

The lease will provide that late payment fees are not due and collectible until 2 weeks after DHC gives written notice of the charges. The written notice is considered an adverse action and must meet the requirements governing a notice of adverse action.

The notice of proposed adverse action must identify the specific grounds for the action and inform the family of its right for a hearing under DHC's grievance procedures. DHC must not take the proposed action until the time for the resident to request a grievance hearing has expired, or, if a hearing was requested within the required timeframe, the grievance process has been completed.

A Notice to Quit will be issued to the Resident with a thirty (30) thirty-day notice period, demanding payment in full or the surrender of the premises, any time after the first of the month.

A charge of \$25 will be assessed against the Resident for checks returned for insufficient funds (NSF) or checks written on a closed account. The fee will be due and payable thirty 30 days after billing. DHC will always consider the rent unpaid when a check is returned as NSF or a check is written on a closed account.

Any payment received will be applied first to the oldest outstanding non-rental charges in the resident's account. Residents under a Repayment Agreement will not be assessed a \$100.00 late fee as long as the resident is current with the Repayment Agreement as defined

in Chapter 16 of this ACOP. Waivers from this provision must be approved by the Executive Director or designee.

### **Excess Utility Charges**

If DHC charges the resident for consumption of excess utilities, the lease will state the basis for the determination of such charges. The imposition of charges for consumption of excess utilities is permissible only if the charges are determined by an individual check meter servicing the leased unit or result from the use of major resident-supplied appliances. When applicable, families may be charged for excess utility usage according

to DHC's current posted schedule. Notices of excess utility charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable thirty (30) calendar days after billing. If the family requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charges until the conclusion of the grievance process.

Non-payment of excess utility charges is a violation of the lease and is grounds for eviction.

### **Maintenance and Damage Charges**

If DHC charges the resident for maintenance and repair beyond normal wear and tear, the lease must state the basis for the determination of such charges.

The Schedule of Resident Charges for services and repairs is incorporated in the lease by reference and must be publicly posted in a conspicuous manner in the property management office and must be furnished to applicants and residents on request.

When applicable, families will be charged for maintenance and/or damages according to DHC's then current Schedule of Resident Charges. Work that is not covered in the schedule will be charged based on the actual cost of labor and materials to make needed repairs, including overtime, if applicable. Notices of maintenance and damage charges will be mailed monthly and will be in accordance with requirements regarding notices of adverse actions. Charges are due and payable thirty (30) calendar days after billing. If the family

requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charges until the conclusion of the grievance process.

Non-payment of maintenance and damage charges is a violation of the lease and is grounds for eviction.

### **Damage Claim Policy**

The Detroit Housing Commission ("DHC") will treat each damage claim submission in a fair and equitable manner. However, Residents are encouraged to purchase renters insurance to cover personal losses and damage to personal items. Damage claims will be processed, to a maximum of \$1,500.00 per occurrence, for Residents who have

sustained damage to their personal property due to the fault of DHC. Claims must be submitted within sixty (60) days after the date the claim arose. Late claims will not be considered.

DHC is not responsible for and will not process claims related to fire, theft water damage, or similar losses which are not the fault of DHC.

DHC is not responsible for and will not process claims related to loss items that are contained in a space such as a basement and/or garage. DHC will consider losses for washing machine and/or dryers only.

Residents must support a claim with appropriate documentation describing the item(s) damaged and the value of the item(s). If the Resident does not have documentation regarding the value of the item(s), the Resident may self-certify the value. However, the amount of payment for repair or replacement, if any, shall be determined solely by DHC after investigation. The payment amount will be based on receipts, age of the item(s) in question and negotiation with the Resident.

Residents that have renter's insurance must first file a claim with their Insurance provider prior to submitting a damage claim to DHC. Once the claim is made and a notification is rendered by the Insurance provider, and the resident provides to DHC the insurance provider's rendering, DHC will then consider processing a claim for the deductible not to exceed \$1,500 or the original claim not to exceed \$1,500. In these cases, the amount paid by DHC will not exceed the deductible.

The Director of Real Estate Management or designee will recommend approval or denial of a claim to the Executive Director. The Executive Director or designee has the final authority to approve or deny a claim.

## **PART II: INSPECTIONS**

### **8-II.A. OVERVIEW**

The PHA is obligated to maintain safe and habitable dwelling units and to make necessary repairs to dwelling units [24 CFR 966.4(e)]. The National Standards for the Inspection Physical Inspection of Real Estate (NSPIRE) are the standard under which HUD housing

units, including those under the public housing program, are inspected. NSPIRE ensures that residents of public housing live in safe, habitable dwellings, and the items and components located inside, outside, and within the units are functionally adequate, operable, and free of health and safety hazards [24 CFR 5.703(a)]. Further, units must comply with state and local code requirements (such as fire, mechanical, plumbing, carbon monoxide, property maintenance, and residential code) [24 CFR 5.703(f)] as well as with all requirements related to the evaluation and control of lead-based paint hazards [24 CFR 5.703(e)(2)].

**Under NSPIRE, public housing units are subject to three types of inspections: annual self-inspections, NSPIRE Inspections (which are used to assess and score the PHA under the Public Housing Assessment System (PHAS)), and NSPIRE Plus Inspections (which are triggered by poor property conditions). HUD regulations also require DHC to inspect each public housing unit prior to move-in and at move-out. DHC may require additional inspections, in accordance with DHC policy. This part contains DHC's policies governing inspections by DHC and HUD, notification of unit entry, and inspection repair timelines. This section discusses inspections conducted by DHC (including annual self-inspections) and inspections conducted by HUD REAC.8-II.B. TYPES OF PHA-CONDUCTED INSPECTIONS**

### **Move-In Inspections**

DHC and the family must inspect the dwelling unit before occupancy in order to determine the condition of the unit and equipment in the unit. A copy of the initial inspection, signed by DHC and the resident, must be provided to the resident and kept in the resident file.

Any adult family member may attend the initial inspection and sign the inspection form for the head of household.

### **Move-Out Inspections**

DHC must inspect the unit at the time the resident vacates the unit and must allow the resident to participate in the inspection if he or she wishes, unless the resident vacates without notice to DHC. The difference between the condition of the unit at move-in and move-out establishes the basis for any charges against the security deposit so long as the work needed exceeds that for normal wear and tear.

The move-out inspection will occur within 72 hours of management's knowledge of the unit's actual vacancy. When applicable, DHC will provide the resident with a statement of charges to be made for maintenance and damage beyond normal wear and tear, within

15 business days of conducting the move-out inspection.

### ***Self-Inspections [24 CFR 5.707]***

Annually all PHAs are required to self-inspect their properties, including all units, to ensure units are maintained in accordance with NSPIRE standards in 24 CFR 5.703. As part of the self-inspection process, PHAs must ensure that deficiencies previously cited and repaired as a result of an NSPIRE inspection have not subsequently failed.

DHC must maintain the results of self-inspections for three years and must provide the results to HUD upon request.

### ***Quality Control Inspections***

The purpose of quality control inspections is to assure that all defects were identified in the original inspection, and that repairs were completed and within an acceptable time frame.

Supervisory quality control inspections will be conducted in accordance with the DHC's maintenance plan.

### **Special Inspections**

DHC staff may conduct a special inspection for any of the following reasons:

Housekeeping

Unit condition

Suspected lease violation

Preventive maintenance

Routine maintenance

There is reasonable cause to believe an emergency exists

### **Other Inspections**

Building exteriors, grounds, common areas and systems will be inspected as deemed necessary by DHC.

## **8-II.C. NOTICE AND SCHEDULING OF INSPECTIONS**

### **Notice of Entry**

## **Non-emergency Entries**

DHC will notify the resident in writing at least 48 hours before any non-emergency inspection.

For regular annual self-inspections, the family will receive at least one week written notice of the inspection to allow the family to prepare the unit for the inspection.

Entry for repairs requested by the family will not require prior notice from DHC. Resident-requested repairs presume permission for DHC to enter the unit.

Except for emergencies, management will not enter the dwelling unit to perform inspections where a pet resides unless accompanied for the entire duration of the inspection by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

## **Emergency Entries**

DHC may enter the dwelling unit at any time without advance notice when there is reasonable cause to believe that an emergency exists. If no adult household member is present at the time of an emergency entry, DHC will leave a written statement showing the date, time and purpose of the entry before leaving the dwelling unit.

In cases when entry into a unit is required by a local, county, state, or federal agency or personnel, the entity seeking entry must provide documentation to DHC which validates the need to enter the unit without advance notice. Acceptable documentation includes a search warrant issued to a bona fide law enforcement agency, another court order which grants entry without advance notice, or other documentation deemed acceptable by the Executive Director or designee. Such documentation will be sought for instances which include, but is not limited to, cases in which a fugitive felon, a parole violator, or a person who is subject to lifetime sex offender registration is believed or known to occupy, visit, and/or reside in the unit, or when law enforcement requests entry into the unit. In instances where a perceived emergency exists, entry may be granted with the approval of the Executive Director or designee. Initial requests for entry made to DHC representatives other than the Executive Director or designee will be forwarded within a reasonable

amount of time to the Executive Director or designee for approval prior to entry being granted.

### **Scheduling of PHA-Conducted Inspections**

Inspections will be conducted during business hours. If a family needs to reschedule an inspection, they must notify DHC at least 24 hours before the scheduled inspection. DHC will reschedule the inspection no more than once unless the resident has a verifiable good cause to delay the inspection. DHC may request verification of such cause.

### **Attendance at Inspections**

Except at move-in inspections, the resident is not required to be present for the inspection. The resident may attend the inspection if he or she wishes.

If no one is at home, the inspector will enter the unit, conduct the inspection and leave a notice that the inspector was in the unit.

DHC is obligated to maintain dwelling units and the project in decent, safe and sanitary condition and to make necessary repairs to dwelling units.

### **Emergency Repairs**

If the unit is damaged to the extent that conditions are created which are hazardous to the life, health, or safety of the occupants, the tenant must immediately notify DHC of the damage, and DHC must make repairs within a reasonable time frame. Under NSPIRE, the PHA must correct all Life-Threatening and Severe deficiencies within 24 hours.

If the damage was caused by a household member or guest, the PHA must charge the family for the reasonable cost of repairs. The PHA may also take lease enforcement action against the family.

If the PHA cannot make repairs quickly, the PHA must offer the family standard alternative accommodations. If the PHA can neither repair the defect within a reasonable time frame nor offer alternative housing, rent shall be abated in proportion to the seriousness of the damage and loss in value as a dwelling. Rent shall not be abated if the damage was caused by a household member or guest, or if the resident rejects the alternative accommodations.

If the damage was caused by a household member or guest, DHC may charge the family

for the reasonable cost of repairs. DHC may also take lease enforcement action against the family.

### **Non-emergency Repairs**

DHC will correct deficiencies resulting in a non-emergency work order identified during a DHC conducted inspection within 21 business days of the inspection date. If DHC is unable to make repairs within that period due to circumstances beyond DHC's control, e.g. required parts or services are not available, weather conditions, etc., DHC will notify the family of an estimated date of completion.

The family must allow DHC access to the unit to make repairs.

### **Resident-Caused Damages**

Damages to the unit beyond wear and tear will be billed to the resident in accordance with the policies in 8-I.G., Maintenance and Damage Charges. Repeated or excessive damages to the unit beyond normal wear and tear will be considered a serious or repeated violation of the lease. In cases where a fire and/or flood was caused by the resident, household member, and/or their guests intentionally or by neglect, the resident shall be made responsible for the complete cost of the repairs, not to exceed DHC's current insurance deductible. The resident will also be required to sign a Last Chance Agreement with DHC for up to 5 years.

### **Housekeeping**

Residents whose housekeeping habits pose a non-emergency health or safety risk, encourage insect or rodent infestation, or cause damage to the unit are in violation of the lease. In these instances, DHC will provide proper notice of a lease violation.

A re-inspection will be conducted within 30 days to confirm that the resident has complied with the requirement to abate the problem. Failure to abate the problem or allow for a re-inspection is considered a violation of the lease and may result in termination of tenancy in accordance with Chapter 13.

Notices of lease violation will also be issued to residents who purposely disengage the



unit's smoke detector and/or carbon monoxide alarm. Only one warning will be given. A second incidence will result in lease termination.

### **Smoke Detectors**

Notices of lease violation will also be issued to residents who purposely disengage the unit's smoke detector. Only one warning will be given. A second incidence will result in lease termination.

In some cases, the Inspector may find it necessary to take a photographic picture of any noted deficiencies that were found during the inspection.

### **HUD's Lead Safe Housing Rule**

HUD's Lead Safe Housing Rule (LSHR) applies to "target housing," which, under the LSHR, is any housing constructed prior to 1978, except housing for households for the elderly or persons with disabilities or any 0- bedroom dwelling (unless any child who is less than 6 years of age resides or is expected to reside in such housing ). In accordance with HUD's Lead Safe Housing Rule, for public housing, when a child under 6 is identified with an Elevated Blood Lead Level (EBLL), DHC must take the following steps:

Initial notification of a confirmed case to HUD: DHC must notify the Field Office and HUD's Office of Lead Hazard Control (OLHCHH) of the EBLL case within 5 business days.

Initial notification of a confirmed case to public health department, when necessary: DHC must notify the public health department of the EBLL case within 5 business days when it received the notification of the case from another medical health care professional.

Verification of the case, when necessary: If DHC learns that a child has an EBLL from someone other than a medical health care provider, such as from a parent, DHC must immediately verify the report with the health department or medical health care provider.

Environmental Investigation: DHC must conduct an environmental investigation of the

child's unit and the common areas servicing that unit within 15 calendar days in accordance with HUD guidelines. If lead-based paint hazards are found in the index unit in a multiunit property, perform risk assessments in other covered units with a child under age 6 and the common areas servicing those units in accordance with HUD guidelines.

Control: DHC must ensure that any lead-based paint hazards identified by the environmental investigation are controlled within 30 calendar days by a certified lead based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340.

If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards in accordance with HUD guidelines. Notification to other residents: In a multiunit property, DHC must notify all residents of lead evaluation and hazard control activities.

Follow-up notification: DHC must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of each activity.

Ongoing maintenance and reevaluation: After the work passes clearance, DHC must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. DHC must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

#### **8-II.D. NSPIRE INSPECTIONS [24 CFR 5.705(c); Notice PIH 2023-16]**

During an NSPIRE inspection, REAC inspectors will inspect areas and associated items or

components that are listed in the regulations as affirmative requirements and those included within the NSPIRE standards. For most properties, the frequency of NSPIRE inspections is determined by the date of the prior inspection and the score received.

### **Notice to Residents [Notice PIH 2023-16]**

The PHA must provide notice to all residents as described in 24 CFR 5.711(h) and the lease.

DHC will provide all residents with at least seven days' notice of an NSPIRE inspection. Notice will be provided through multiple communication methods, including by posted notice on each resident's door and through email where applicable. All materials, notices, and communications to families regarding the inspection will be clearly communicated and provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act (Section 504) and HUD's Section 504 regulation, and Titles II or III of the Americans with Disabilities Act (ADA) and implementing regulations.

### **24-Hour Corrections [24 CFR 5.711(c); Notice PIH 2023-16]**

At the conclusion of the NSPIRE inspection, or at the end of the day on multi-day inspections, HUD provides the PHA with a list of Life-Threatening and Severe deficiencies. The PHA must correct all Life-Threatening and Severe deficiencies within 24 hours, with certification of correction submitted to HUD within two business days of receipt of notification of the deficiency.

If permanent repair will take longer than the allowable time in the relevant standard for the deficiency, DHC must provide HUD with a timeframe for completing permanent repairs and submit evidence that the repair is in progress. Any extension to the allowable time for rectifying the deficiency is allowed only upon HUD approval for good cause.

DHC will correct all Life-Threatening and Severe deficiencies within 24 hours. Correcting the deficiency means the PHA will resolve or sufficiently address the deficiency in a manner that it no longer poses a severe health or safety risk to residents or the hazard is blocked until permanent repairs can be completed. A correction could include controlling or blocking access to the hazard by performing a temporary relocation of the resident while repairs are made.

While DHC will complete all repairs expeditiously, if a permanent repair is not possible within 24-hours, DHC will correct the deficiency by performing an interim repair to remove the health and safety hazard. If the correction is temporary or professional services or materials are unavailable within 24 hours, DHC will provide a target date for permanent correction. Such interim repairs will be fully completed within a reasonable timeframe approved by HUD.

The family must allow DHC access to the unit to make repairs.

## **Non-emergency Repairs**

Under NSPIRE, DHC must correct Moderate deficiencies within 30 days and Low deficiencies within 60 days, or as otherwise provided in the NSPIRE standards. Repairs should be permanent fixes, unless otherwise approved by HUD in writing. HUD may also prescribe timelines in Corrective Action Plans as defined in 24 CFR 902.3 or Corrective Action Agreements as described in 24 CFR 902.105.

If DHC is unable to make repairs within the periods identified in the NSPIRE standards due to circumstances beyond DHC's control (e.g., required parts or services are not available, weather conditions, etc.), DHC will provide HUD with a timeframe for completing permanent repairs and obtain HUD approval. DHC will also notify the family of an estimated date of completion.

The family must allow DHC access to the unit to make repairs.

Except for emergencies, management will not enter the dwelling unit to perform repairs where a pet resides unless accompanied for the entire duration of the repair by the pet owner or responsible person designated by the pet owner in accordance with the pet policies in Section 10-II.D.

## CHAPTER 9: REEXAMINATIONS

### INTRODUCTION

DHC is required to monitor each family's income and composition over time, and to adjust the family's rent accordingly. DHC must adopt policies concerning the conduct of annual and interim reexaminations that are consistent with regulatory requirements and must conduct reexaminations in accordance with such policies.

The frequency with which DHC must reexamine income for a family depends on whether the family pays income-based or flat rent. This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains DHC's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains DHC's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes DHC policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, DHC must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination. Policies governing reasonable accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

## **PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME BASED RENTS**

### **9-I.A. OVERVIEW**

For those families who choose to pay income-based rent, DHC must conduct a reexamination of income and family composition at least annually. For families who choose flat rents, DHC must conduct a reexamination of family composition at least annually and must conduct a reexamination of family income at least once every 3 years. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, DHC must conduct an annual review of community service requirement compliance.

DHC is required to obtain information needed to conduct reexaminations. How that information will be collected is left to DHC's discretion. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process.

This part contains DHC's policies for conducting annual reexaminations.

### **9-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

Generally, DHC may schedule annual reexaminations to coincide with the family's anniversary date. DHC will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, DHC will perform an interim reexamination; however, the annual anniversary date will remain the same.

DHC may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

HUD permits DHC 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 DHC may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. DHC may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, DHC must perform third-party verification of all income sources.

Fixed sources of income include the following:

1. Social Security payments, to include Supplemental Security Income (SSI) and
2. Supplemental Security Disability Insurance (SSDI);
3. Federal, state, local, and private pension plans; and
4. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.
5. Other sources of income subject to a COLA or rate of interest.

The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

DHC will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. DHC will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, DHC will use third-party verification of all income amounts for that family member. If verification of the COLA or rate of interest is not available, DHC will obtain third-party verification of fixed income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

## **Notification of and Participation in the Annual Reexamination Process**

DHC is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to DHC's discretion. However, residents who were not provided the opportunity to provide contact information at the time of admission will be provided the option to complete Form HUD-92006 at this time. DHC will provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination.

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, co-head, and all other adult family members. 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.

Notification of annual reexamination interviews will be sent by mail or hand delivered 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.

If the family is unable to attend a scheduled interview, the family should contact DHC in advance of the interview to schedule a new appointment. In all circumstances, 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 without DHC approval, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

### **9-I.C. CONDUCTING ANNUAL REEXAMINATIONS**

Families will be asked to bring all required information, as described in the reexamination notice, to the reexamination appointment. The required information will include a DHC-designated reexamination form, an Authorization for the Release of Information/Privacy



Act Notice (HUD 9886), as well as supporting documentation related to the family's income, expenses, and family composition.

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. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of its lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or 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 include:

1. Legal identity
2. Age
3. Social security numbers
4. A person's disability status
5. Citizenship or immigration status
6. Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual reexamination to require the family to move to an appropriate size unit.

Policies related to such transfers are located in Chapter 12.

### **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and older will be required to execute a consent form for a criminal background check as part of the annual reexamination process and DHC may utilize the consent to conduct a criminal history check at any time utilizing the consent provided upon admission or the consent provided while the household member is an occupant.

### **Compliance with Community Service**

For families who include non-exempt individuals, DHC will determine compliance with community service requirements once each 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

### **9-I.D. EFFECTIVE DATES**

In general, an increase in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the family causes a delay in processing the annual reexamination, increases in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a Repayment Agreement in accordance with the policies in Chapter 16.

In general, a decrease in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the family causes a delay in processing the annual reexamination, decreases in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by DHC by the date specified, and this delay

prevents DHC from completing the reexamination as scheduled.

## **PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS**

### **9-II.A. OVERVIEW**

This part contains DHC's policies for conducting reexaminations of families who choose to pay flat rents.

### **9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION**

#### **Frequency of Reexamination**

For families paying flat rents, DHC will conduct a full reexamination of family income and composition once every 3 years.

#### **Reexamination Policies**

In conducting full reexaminations for families paying flat rents, DHC will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

### **9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)**

#### **Scheduling**

For families paying flat rents, annual updates for family composition will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, DHC will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

#### **Conducting Annual Updates**

Generally, the family will not be required to attend an interview for an annual update. However, if DHC determines that an interview is warranted, the family may be required to attend. Notification of the annual update will be sent by mail or hand delivered and will inform the family of the information and documentation that must be provided to DHC.

The family will have 10 business days to submit the required information to DHC. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. DHC will accept required documentation by mail, by fax, by email, or in person.

If the family's submission is incomplete, or the family does not submit the information in the required time frame, DHC will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to DHC.

If the family does not provide the required documents or information within the required time frame, plus any extensions, the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

### **Change in Unit Size**

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. DHC may use the results of the annual update to require the family to move to an appropriate size unit. Policies related to such transfers are located in Chapter 12.

### **Criminal Background Checks**

Information obtained through criminal background checks may be used for lease enforcement and eviction. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

Each household member age 18 and older will be required to execute a consent form for criminal background check as part of the annual update process.

### **Compliance with Community Service**

For families who include non-exempt individuals, DHC must determine compliance with community service requirements once each 12 months.

See Chapter 11 for DHC's policies governing compliance with the community service requirement.

## **PART III: INTERIM REEXAMINATIONS**

### **9-III.A. OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. This part includes DHC policies describing what changes families are required to report, what changes families may choose to report, and how DHC will process both DHC- and family-initiated interim reexaminations.

### **9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

DHC must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the PHA has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

All families must report all changes in family and household composition that occur between annual reexaminations or annual updates.

DHC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations. 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.

#### **New Family Members Not Requiring Approval**

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require DHC approval. However, the head of household must inform DHC of the birth, adoption, or court-awarded custody of a child within 10 business days.

## **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request DHC's approval to add a new family member or other household member, i.e., a live-in aide or foster child. DHC may adopt reasonable policies concerning residence by a foster child or a live-in aide and defining the circumstances in which DHC consent will be given or denied. Under such policies, the factors considered by DHC may include:

Whether the addition of a new household member may necessitate a transfer of the family to another unit, and whether such units are available.

DHC's obligation to make reasonable accommodation for persons with disabilities.

Families must request DHC approval to add a new family member, live-in aide, foster child, child caretaker or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by DHC before the individual moves into the unit.

DHC will not approve the addition of new family or household members other than by birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit under the transfer policy in Chapter 12, unless the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by DHC. DHC will not approve the addition of adult family members who previously resided at a DHC development for a period of one-year from the date that the adult family member moved out of DHC housing. Exceptions must be approved by the Director of Real Estate Management or designee. DHC will not approve the addition of a new family or household member unless the individual meets DHC's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If DHC determines that an individual does not meet DHC's eligibility criteria or documentation requirements, 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.

DHC will make its determination within 15 business days of receiving all information required to verify the individual's eligibility.

### **Departure of a Family or Household Member**

If a family member ceases to reside in the unit, the family must inform DHC within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform DHC within 10 business days of the occurrence of the income change.

### **9-III.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because DHC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, DHC may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so. Families must report income changes within 10 business days of the occurrence of the income change.

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

#### **Interim Decreases [24 CFR 960.257(b)(2) and Notice PIH 2023-27]**

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income. DHC will conduct an interim reexamination any time the family's adjusted income has decreased by any amount.

### **Interim Increases [24 CFR 960.257(b)(3) and Notice PIH 2023-27]**

#### ***Increases Less than 10 Percent***

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

#### ***Increases 10 Percent or Greater***

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

When a family reports an increase in their earned income between annual reexaminations, DHC will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

DHC will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

DHC will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with DHC policies in Chapter 15.

#### ***Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]***

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of



each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

### ***Cumulative Increases [Notice PIH 2023-27]***

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

### ***Public Housing Over-Income Families [24 CFR 960.507(c); Notice PIH 2020-3; and Notice PIH 2023-27]***

Regardless of changes in adjusted income, in some circumstances the PHA is required to conduct an interim reexamination to determine whether a family's income continues to exceed the public housing over-income limit. PHAs are required to conduct income examinations of public housing families who have been determined to exceed the over-income limit at specific intervals. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct a second interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period. This continued evaluation of the family's over-income status requires the PHA to notify any family that exceeds the over-income limit that they remain over the income limit, even if the family is paying the flat rent [24 CFR 960.253]. An interim income reexamination to determine if a public housing family remains over-income does not reset the family's normal annual reexamination date.

## **DHC-initiated Interim Reexaminations**

DHC-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by DHC. They are not scheduled because of changes reported by the family.

DHC will conduct interim reexaminations in each of the following instances:

1. For families receiving the Earned Income Disallowance (EID).

2. The family has reported zero annual income (every 6-months as long as the family continues to report that they have no income).

DHC may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, to correct a previous reexamination if resident self- certification documents were used and third-party verifications subsequently become available, or to investigate a resident fraud complaint.

## **Family-Initiated Interim Reexaminations**

### **Required Reporting**

Families who are receiving the earned income disallowance are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

DHC will conduct interim reexaminations for families that qualify for the earned income disallowance only when the EID family's rent will change as a result of the increase. DHC will also conduct interim reexaminations for cases in which households experience within six months following the effective date of the most recently completed annual reexamination a change in the source(s) of household income. In all other cases, DHC will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

### **Optional Reporting**

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. DHC must process the request if the family reports a change that will result in a reduced family income. If a family reports a decrease in income from the loss of welfare benefits due to fraud or noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. For more information regarding the requirement to impute welfare income see Chapter 6.

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, DHC will note the information in the resident file, but will not

conduct an interim reexamination.

A FSS family, at their discretion, may request an interim reexamination if there is an increase in earned income and the increase is a direct benefit to the resident and the associated FSS escrow account.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, DHC will conduct an interim reexamination. See Section 9III.D. for effective dates.

Families may report changes in income or expenses at any time.

### **9-III.D. PROCESSING THE INTERIM REEXAMINATION**

#### **Method of Reporting**

The family must notify DHC of changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if DHC determines that an interview is warranted, the family may be required to attend.

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, email, or in person.

#### **Effective Dates**

DHC must perform the interim reexamination within a reasonable time after the family request.

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. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## **PART IV: RECALCULATING TENANT RENT**

### **9-IV.A. OVERVIEW**

For those families paying income-based rent, DHC must recalculate the rent amount based on the income information received during the reexamination process and notify the family 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 reexamination.

### **9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]**

The tenant rent calculations must reflect any changes in DHC's utility allowance schedule. Chapter 16 discusses how utility allowance schedules are established.

Unless DHC revises utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

### **9-IV.C. NOTIFICATION OF NEW TENANT RENT**

When DHC re-determines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the resident, not including determination of DHC's Schedule of Utility Allowances, or determines that the resident must transfer to another unit based on family composition, DHC will notify the resident that the resident may ask for an explanation stating the specific grounds of DHC's determination, and that if the resident does not agree with the determination, the resident has the right to request a hearing under DHC's grievance procedure.

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

### **9-IV.D. DISCREPANCIES**

During an annual or interim reexamination, 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 rent are discovered, corrections will be made in accordance with the policies in Chapter 15.

## **CHAPTER 10: PETS**

### **INTRODUCTION**

This chapter explains DHC policies on the keeping of pets and any criteria or standards pertaining to the policies. The rules adopted are reasonably related to the legitimate interest of DHC to provide a decent, safe and sanitary living environment for all residents, and to protect and preserve the physical condition of the property, as well as the financial interest of DHC. The chapter is organized as follows:

Part I: Service Animals and Assistance Animals. This part explains the difference between service animals, assistance animals and pets and contains policies related to the designation of a service animal or assistance animal as well as their care and handling.

Part II: Pet policies for all developments. This part includes pet policies that are common to both elderly/disabled developments and general occupancy developments.

### **PART I: SERVICE ANIMALS AND ASSISTANCE ANIMALS**

#### **10-I.A. OVERVIEW**

This part discusses situations under which permission for a service animal or an assistance animal may be denied, and also establishes standards for the care of service and assistance animals.

A service animal is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition." An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that

alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to the following:

Guiding individuals who are blind or have low vision

Alerting individuals who are deaf or hard of hearing to sounds

Providing protection or rescue assistance

Pulling a wheelchair

Fetching items

Alerting persons to impending seizures

Providing emotional support to persons with disabilities who have a disability-related need for such support

For purposes of reasonable accommodation requests, neither the Fair Housing Act nor Section 504 requires an assistance animal to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Neither service animals nor assistance animals are considered pets, and thus, are not subject to DHC's pet policies described in Parts II through IV of this chapter.

#### **10-I.B. APPROVAL OF SERVICE AND ASSISTANCE ANIMALS**

For an animal to be excluded from the pet policy and be considered a service animal, it must be a trained dog, and there must be a person with disabilities in the household who requires the dog's services.

For an animal to be excluded from the pet policy and be considered an assistance animal, there must be a person with disabilities in the household, and the family must request and DHC must approve a reasonable accommodation in accordance with the policies contained in Chapter 2.

#### **10-I.C. CARE AND HANDLING**

Residents must care for service and assistance animals in a manner that complies with state and local laws, including anti-cruelty laws.

Residents shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited; however, DHC may consider reasonable accommodation requests for installation.

Residents must ensure that service and assistance animals do not pose a direct threat to the health or safety of others, or cause substantial physical damage to the development, dwelling unit, or property of other residents. Residents shall be responsible for removing pet waste from DHC premises. The resident shall take adequate precautions to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

Residents shall control the noise of the service or assistance animal so that such noise does not constitute a nuisance to neighbors, other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

No animals may be tethered or chained inside or outside the dwelling unit at any time.

When a resident's care or handling of a service or assistance animal violates these policies, DHC will consider whether the violation could be reduced or eliminated by a reasonable accommodation. If DHC determines that no such accommodation can be made, DHC may withdraw the approval of a particular service or assistance animal.

### **Notice of Lease Violation**

If a determination is made on objective facts supported by written statements, that a resident has failed to maintain a service or assistance animal in accordance with these policies, a written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the policy(s) that were violated. The notice will also state:

That the resident has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.



That the resident is entitled to be accompanied by another person of his or her choice at the meeting.

That the resident's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to terminate the resident's tenancy.

### **Notice for Removal of Service or Assistance Animal**

If resident and DHC are unable to resolve the violation at the meeting or the resident fails to correct the violation in the time period allotted by DHC, DHC may initiate termination of tenancy procedures.

The notice will contain:

A brief statement of the factual basis for DHC's determination of the policy(s) that has been violated.

The requirement that the resident must remove the service or assistance animal within 30 calendar days of the notice.

A statement that failure to remove the service or assistance animal may result in the initiation of termination of tenancy procedures.

### **Removal of Service or Assistance Animal**

If the death or incapacity of the resident threatens the health or safety of the service or assistance animal, or other factors occur that render the resident unable to care for the animal, the situation will be reported to the responsible party designated by the resident. If the responsible party is unwilling or unable to care for the animal, or if DHC, after reasonable efforts, cannot contact the responsible party, DHC may contact the appropriate state or local agency and request the removal of the animal.

### **Termination of Tenancy**

DHC may initiate procedures for termination of tenancy based on a service or assistance animal policy if:

The resident has failed to remove the animal or correct a policy violation within the time period specified.

The policy violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

## **Emergencies**

DHC will take all necessary steps to ensure that service or assistance animals that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local agency authorized to remove such animals.

If it is necessary for DHC to place the service or assistance animal in a shelter facility, the cost will be the responsibility of the owner of the service or assistance animal.

If the service or assistance animal is removed as a result of any aggressive act on the part of the animal, the animal will not be allowed back on the premises.

## **PART II: PET POLICIES FOR ALL DEVELOPMENTS**

### **10-II.A. OVERVIEW**

The purpose of a pet policy is to establish clear guidelines for ownership of pets and to ensure that no applicant or resident is discriminated against regarding admission or continued occupancy because of ownership of pets. It also establishes reasonable rules governing the keeping of common household pets. This part contains pet policies that apply to all developments.

### **10-II.B. MANAGEMENT APPROVAL OF PETS**

#### **Registration of Pets**

Pets must be registered with DHC before they are brought onto the premises.

Registration includes documentation signed by a licensed veterinarian or state/local authority that the pet has received all inoculations required by state or local law, and that the pet has no communicable disease(s) and is pest-free. This registration must be renewed annually and will be coordinated with the annual reexamination date.

Pets will not be approved to reside in a unit until completion of the registration requirements.

A photo of the pet approved to reside in a unit must be provided to DHC before the pet is actually residing in a unit. The family must provide to DHC an updated photo of the pet(s) at least annually.

### **Refusal to Register Pets**

DHC will refuse to register a pet if:

The pet is not a common household pet as defined in Section 10-II.C.

Keeping the pet would violate any pet restrictions listed in this policy.

The pet owner fails to provide complete pet registration information or fails to update the registration annually.

The applicant has previously been charged with animal cruelty under state or local law; or has been evicted, had to relinquish a pet or been prohibited from future pet ownership due to pet rule violations or a court order.

DHC reasonably determines that the pet owner is unable to keep the pet in compliance with the pet rules and other lease obligations. The pet's temperament and behavior may be considered as a factor in determining the pet owner's ability to comply with provisions of the lease.

If DHC refuses to register a pet, a written notification will be sent to the pet owner within 15 business days of DHC's decision. The notice will state the reason for refusing to register the pet and will inform the family of their right to appeal the decision in accordance with DHC's grievance procedures.

## **Pet Agreement**

Residents who have been approved to have a pet must enter into a pet agreement with DHC, or the approval of the pet will be withdrawn.

The pet agreement is the resident's certification that he or she has received a copy of DHC's pet policy and applicable house rules, that he or she has read the policies and/or rules, understands them, and agrees to comply with them.

The resident further certifies by signing the pet agreement that he or she understands that noncompliance with DHC's pet policy and applicable house rules may result in the withdrawal of DHC approval of the pet or termination of tenancy.

## **10-II.C. STANDARDS FOR PETS**

### **Definition of "Common Household Pet"**

Common household pet is defined as a domesticated dog, cat, guinea pig, gerbil, hamster, rabbit, or birds in cages and fish in aquariums. Reptiles and birds of prey are not common household pets.

Exotic animals, such as iguanas, spiders, snakes (reptiles), rodents, insects, wild animals or feral animals, pot-bellied pigs, animals used for commercial breeding or ferrets, will not be considered household pets and will not be permitted. Dogs of vicious or aggressive disposition will not be permitted. Due to age and behavioral activities of puppies and kittens, ownership requests for such animals shall be more closely scrutinized prior to approval in an attempt to ensure that the animal owner resident has the ability to handle the ownership responsibilities involved with such animals.

## **Pet Restrictions**

The following animals are not permitted:

1. Reptiles of any kind, except for small turtles,
2. Mice and rats
3. Dangerous Fish

4. Spiders and other insects
5. Farm Animals

Any animal whose adult weight will exceed 40 pounds

Ferrets or other animals whose natural protective mechanisms pose a risk to small children of serious bites or lacerations

Any animal not permitted under state law or local law or ordinance or code.

### **Number of Pets per Household**

Residents may own a maximum of 2 pets, regardless of the type of allowable pet. A

household may own no more than two animals which includes “Passive Animals.”

The term “Passive Animals” is defined as one or two birds in one cage or one or more fish that can be maintained in a safe and healthy manner in a tank holding up to 25 gallons.

No more than two birds in a cage will count as one animal. An appropriate size aquarium with fish shall count as one animal.

### **Size of Animals**

The maximum allowable animal size, based upon weight, is forty (40) pounds adult weight, except for service and assistance animals that assist persons with disabilities.

### **Other Requirements**

Dogs and cats must be spayed or neutered at the time of registration or, in the case of underage animals, within 30 days of the pet reaching 6 months of age. Exceptions may be made upon veterinary certification that subjecting this particular pet to the procedure would be temporarily or permanently medically unsafe or unnecessary.

Pets must be licensed in accordance with state or local law or code. Residents must provide proof of licensing at the time of registration and annually, in conjunction with the resident’s annual reexamination.

## **10-II.D. PET RULES**

### **Pet Area Restrictions**

#### **Properties Other Than Scattered Sites Properties**

Pets must be maintained within the resident's unit. When outside of the unit (within the building or on the grounds) dogs and cats must be kept on a leash or carried. Pets must be under the control of the resident or other responsible individual at all times. Pets other than dogs or cats must be kept in a cage or carrier when outside of the unit. Pets are not permitted in common areas including lobbies, community rooms and laundry areas except for those common areas which are entrances to and exits from the building.

Pet owners are not permitted to exercise pets or permit pets to deposit waste on project premises outside of the areas designated for such purposes.

The pet owner shall be responsible for the removal of pet waste from DHC grounds by placing it in a sealed plastic bag and disposing of it.

#### **Scattered Site Properties**

Pets may be maintained within the resident's unit or in a suitable outdoor enclosure. Residents must obtain DHC permission before constructing an outdoor enclosure for a pet on the scattered site premises.

Pet owners shall comply with applicable laws related to controlling their pets.

The pet owner shall be responsible for the removal of pet waste from the scattered site premises.

#### **Designated Pet/No-Pet Areas**

With the exception of common areas as described in the previous policy, DHC has not designated any buildings, floors of buildings, or sections of buildings as no-pet areas. In addition, DHC has not designated any buildings, floors of buildings, or sections of buildings for residency of pet-owning tenants.

## **Cleanliness**

The pet owner shall be responsible for the removal of waste from DHC grounds by placing it in a sealed plastic bag and disposing of it. The pet owner shall take adequate precautions

to eliminate any pet odors within or around the unit and to maintain the unit in a sanitary condition at all times.

### **Litter box requirements**

Pet owners must promptly dispose of waste from litter boxes and must maintain litter boxes in a sanitary manner.

Litter shall not be disposed of by being flushed through a toilet.

Litter boxes shall be kept inside the resident's dwelling unit.

## **Alterations to Unit**

Except for residents of scattered sites units who have received DHC approval to construct an outdoor enclosure for a pet, pet owners shall not alter their unit, patio, premises or common areas to create an enclosure for any animal.

Installation of pet doors is prohibited; however, DHC will consider reasonable accommodation requests for installation.

## **Noise**

Pet owners must agree to control the noise of pets so that such noise does not constitute a nuisance to other residents or interrupt their peaceful enjoyment of their housing unit or premises. This includes, but is not limited to loud or continuous barking, howling, whining, biting, scratching, chirping, or other such activities.

DHC may not require pet owners to have any pet's vocal cords removed.

## **Pet Care**

Each pet owner shall be responsible for adequate care, nutrition, exercise and medical attention for his/her pet, service and assistance animal.

Each pet owner shall be responsible for appropriately training and caring for his/her pet to ensure that the pet is not a nuisance or danger to other residents, DHC staff or others and does not damage DHC property.

## **Responsible Parties**

The pet owner will be required to designate two responsible parties for the care of the pet if the health or safety of the pet is threatened by the death or incapacity of the pet owner, or by other factors that render the pet owner unable to care for the pet.

A resident who cares for another resident's pet must notify DHC and sign a statement that they agree to abide by all of the pet rules.

## **Pets Temporarily on the Premises**

Pets that are not owned by a resident are not allowed on the premises. Residents are prohibited from feeding or harboring stray animals.

This rule does not apply to visiting pet programs sponsored by a humane society or other non-profit organizations and approved by DHC.

## **Pet Rule Violations**

All complaints of cruelty and all dog bites will be referred to animal control or an applicable agency for investigation or enforcement. If a determination is made on objective facts supported by written statements, that a resident/pet owner has violated the pet rules, written notice will be served.

The notice will contain a brief statement of the factual basis for the determination and the pet rule(s) that were violated. The notice will also state:

That the pet owner has 10 business days from the effective date of the service of notice to correct the violation or make written request for a meeting to discuss the violation.



That the pet owner is entitled to be accompanied by another person of his or her choice at the meeting.

That the pet owner's failure to correct the violation, request a meeting, or appear at a requested meeting may result in initiation of procedures to remove the pet, or to terminate the pet owner's tenancy.

### **Notice for Pet Removal**

If the pet owner and DHC are unable to resolve the violation at the meeting or the pet owner fails to correct the violation in the time period allotted by DHC, DHC may serve notice to remove the pet.

The notice will contain:

A brief statement of the factual basis for DHC's determination of the pet rule that has been violated.

The requirement that the resident/pet owner must remove the pet within 30 calendar days of the notice.

A statement that failure to remove the pet may result in the initiation of termination of tenancy procedures.

### **Pet Removal**

If the death or incapacity of the pet owner threatens the health or safety of the pet, or other factors occur that render the owner unable to care for the pet, the situation will be reported to the responsible party designated by the pet owner.

If the responsible party is unwilling or unable to care for the pet, or if DHC, after reasonable efforts, cannot contact the responsible party, DHC may contact the appropriate state or local agency and request the removal of the pet.

### **Termination of Tenancy**

DHC may initiate procedures for termination of tenancy based on a pet rule violation if:

The pet owner has failed to remove the pet or correct a pet rule violation within the time

period specified.

The pet rule violation is sufficient to begin procedures to terminate tenancy under terms of the lease.

### **Emergencies**

DHC will take all necessary steps to ensure that pets that become vicious, display symptoms of severe illness, or demonstrate behavior that constitutes an immediate threat to the health or safety of others, are immediately removed from the premises by referring the situation to the appropriate state or local agency authorized to remove such animals.

If it is necessary for DHC to place the pet in a shelter facility, the cost will be the responsibility of the pet owner.

If the pet is removed as a result of any aggressive act on the part of the pet, the pet will not be allowed back on the premises.

## **10-II.E. PET DEPOSITS**

DHC may require a refundable pet deposit to cover additional costs attributable to the pet and not otherwise covered.

When DHC requires a resident to pay a pet deposit, DHC must place the deposit in an account of the type required under applicable State or local law for pet deposits, or if there are no such requirements, for rental security deposits, if applicable. DHC must comply with such laws as to retention of the deposit, interest, and return of the deposit to the resident, and any other applicable requirements.

### **Payment of Deposit**

Pet owners are required to pay a pet deposit in addition to any other required deposits. The amount of the deposit is \$300.00 per pet, and must be paid in full before the pet is brought on the premises.

The pet deposit does not apply to service and assistance animals.

## **Refund of Deposit**

DHC may use the pet deposit only to pay reasonable expenses directly attributable to the presence of the pet, including but not limited to the costs of repairs and replacements to, and fumigation of, the resident's dwelling unit. DHC must refund the unused portion of the pet deposit to the resident within a reasonable time after the resident moves from the project or no longer owns or keeps a pet in the unit.

DHC will refund the pet deposit to the resident, less the costs of any damages caused by the pet to the dwelling unit or for fumigation and/or extermination of fleas or other pests brought in the dwelling unit by the pet, within 30 days of move-out or removal of the pet from the unit.

The resident will be billed for any amount that exceeds the pet deposit.

DHC will provide the resident with a written list of any charges against the pet deposit within thirty (30) days of the move-out inspection. If the resident disagrees with the amount charged to the pet deposit, DHC will provide a meeting to discuss the charges.

## **10-II.E. OTHER CHARGES**

### **Monthly Pet Rent**

**Pet owners are required to pay a separate \$10.00 monthly charge per pet. Pet rent is due by the 15<sup>th</sup> of each month.**

### **Pet-Related Damages During Occupancy**

All reasonable expenses incurred by DHC as a result of damages directly attributable to the presence of the pet in the project will be the responsibility of the resident, including:

The cost of repairs and replacements in the resident's dwelling unit.

Fumigation of the dwelling unit.

Repairs to common areas of the project.

The expense of flea elimination shall also be the responsibility of the resident. If the

resident is in occupancy when such costs occur, the resident shall be billed for such costs in accordance with the policies in Section 8-I.G, Maintenance and Damage Charges. Pet deposits will not be applied to the costs of pet-related damages during occupancy.

Charges for pet-related damage are not part of rent payable by the resident.

### **Pet Waste Removal Charge**

A separate pet waste removal charge of \$10.00 per occurrence will be assessed against pet owners who fail to remove pet waste in accordance with this policy.

Notices of pet waste removal charges will be in accordance with requirements regarding notices of adverse action. Charges are due and payable 14 calendar days after billing. If the family requests a grievance hearing within the required timeframe, DHC may not take action for non-payment of the charge until the conclusion of the grievance process.

Charges for pet waste removal are not part of rent payable by the resident.

## **CHAPTER 11: COMMUNITY SERVICE**

### **INTRODUCTION**

This chapter explains HUD regulations requiring DHC to implement a community service program for all non-exempt adults living in public housing.

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

Part I: Community Service Requirements. This part describes who is subject to the community service requirement, who is exempt, and HUD's definition of economic self-sufficiency.

Part II: DHC Implementation of Community Service. This part provides DHC policy regarding DHC's implementation and program design.

### **PART I: COMMUNITY SERVICE REQUIREMENT**

#### **11-I.A. OVERVIEW**

HUD regulations establish community service requirements. DHC and residents must comply with the community service requirement, effective with DHC fiscal years that commenced on or after October 1, 2000.

In administering community service requirements, DHC must comply with all nondiscrimination and equal opportunity requirements.

#### **11-I.B. REQUIREMENTS**

Each adult resident of DHC, who is not exempt, shall either:

Contribute 8 hours per month of community service; or

Participate in an economic self-sufficiency program for 8 hours per month; or

Perform 8 hours per month of combined activities (community service and economic self-sufficiency programs).

The required community service or self-sufficiency activity may be completed at 8 hours each 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.

## **Definitions**

### **Exempt Individual**

An exempt individual is an adult who:

Is age 62 years or older.

Is blind or disabled (as defined under section 216[i][I] or 1614 of the Social Security Act), and who certifies that because of this disability s/he is unable to comply with the community service provisions.

Is a primary caretaker of such an individual.

Is engaged in work activities. DHC will require proof of employment of at least 20 hours per week to qualify for a work activity exemption.

Meets the requirements for being exempted from having to engage in work activity under the Michigan program funded under part A of Title IV of the Social Security Act, or under any other Michigan welfare program including a state administered welfare to work program;

This exemption applies to anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified.

A member of a family receiving assistance, benefits, or services under the Michigan program funded under part A of Title IV of the Social Security Act, or under any other welfare program administered by Michigan's Department of Human Services including a state-administered welfare-to-work program and the supplemental nutrition assistance program (SNAP), and has not been found by the state or other administering entity to be in noncompliance with such program.

### **Community Service**

Community service is the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase

resident self-responsibility in the community. Community service is not employment and may not include political activities. (24 CFR 960.601 (b)) Eligible community service activities include, but are not limited to, work at:

Local public or non-profit institutions such as schools, head start programs, before or after school programs, child care centers, hospitals, clinics, hospices, nursing homes, recreation centers, senior centers, adult day care programs, homeless shelters, feeding programs, food banks (distributing either donated or commodity foods), or clothes closets (distributing donated clothing);

Non-profit organizations serving DHC residents or their children, including but not limited to, Boy or Girl Scouts, Boys or Girls Club, 4-H clubs, Head Start, Think Detroit/Police Activities League (PAL) organized children's recreation, mentoring or education programs, Big Brothers or Big Sisters, garden centers, community clean-up programs, beautification programs;

Programs funded under the Older Americans Act, such as Green Thumb, Service Corps of Retired Executives, senior meals programs, senior centers, Meals on Wheels;

Public or non-profit organizations dedicated to seniors, youth, children, residents, citizens, special-needs populations or with missions to enhance the environment, historic resources, cultural identities, neighborhoods, or performing arts;

DHC housing to improve grounds or provide gardens (so long as such work does not alter DHC's insurance coverage); or work through resident organizations to help other residents with problems, including serving on the Resident Advisory Board; and Care for the children of other residents so parent may volunteer. DHC may accept community service at profit-motivated entities, volunteer work performed at homes or offices of general private citizens. Court-ordered or probation-based work are not eligible community service activities.

### **Economic Self-Sufficiency Program**

For purposes of satisfying the community service requirement, an economic self-sufficiency program is any program designed to encourage, assist, train, or facilitate

economic independence of assisted families or to provide work for such families.

Eligible self-sufficiency activities include, but are not limited to:

Job readiness or job training;

Training programs through local one-stop career centers, workforce investment boards (local entities administered through the U.S. Department of Labor), or other training providers;

Employment counseling, work placement, or basic skills training;

Education, including higher education (junior college or college), GED classes, or reading, financial, or computer literacy classes;

Apprenticeships (formal or informal);

English proficiency or English as a second language classes;

Budgeting and credit counseling classes.

Any other program necessary to ready a participant to work (such as substance abuse or mental health counseling).

### **Work Activities**

As it relates to an exemption from the community service requirement, work activities mean:

Unsubsidized employment; Subsidized

private sector employment;

Subsidized public sector employment;

Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

On-the-job training;

Job search and job readiness assistance;

Community service programs;



Vocational educational training (not to exceed 12 months with respect to any individual);

Job skills training directly related to employment; or

Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency;

Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate

Notification Requirements

DHC must give each family a written description of the community service requirement, the process for claiming status as an exempt person, and the process for DHC verification of exempt status. DHC must also notify the family of its determination identifying the family members who are subject to the service requirement, and the family members who are exempt. In addition, the family must sign a certification, such as Attachment A of HUD PIH Notice 2015-12, that they have received and read the policy and understand that if they are not exempt, failure to comply with the requirement will result in nonrenewal of their lease. The family must also sign a certification at annual reexamination, such as Attachment B of HUD PIH Notice 2015-12, certifying that they understand the requirement.

DHC will provide the family with a copy of Community Service Guidelines, at lease-up, at lease renewal, when a family member is determined to be subject to the community service requirement during the lease term, and at any time upon the family's request.

The guidelines will notify the family that self-certification forms are subject to review by DHC.

On an annual basis, at the time of lease renewal, DHC will notify the family in writing of the family members who are subject to the community service requirement and the family members who are exempt. If the family includes non-exempt individuals, the notice will include a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which they may record the activities they perform and the number of hours contributed. The form will also have a place for a signature by an appropriate official, who will certify to the activities and hours

completed.

## **11-I.C. DETERMINATION OF EXEMPTION STATUS AND COMPLIANCE**

Where the lease term does not coincide with the effective date of the annual reexamination, DHC will change the effective date of the annual reexamination to coincide with the lease term. In making this change, DHC will ensure that the annual reexamination is conducted within 12 months of the last annual reexamination.

### **Annual Determination of Exemption**

#### **Status**

An exempt individual is excused from the community service requirement.

At least 90 days before lease renewal, DHC will review and verify the exemption status of all adult family members. This verification will only be done on an annual basis unless the family reports a change or DHC has reason to believe that an individual's exemption status has changed. For individuals who are exempt because they are 62 years of age and older, verification of exemption status will be done only at the initial examination. Upon completion of the verification process, DHC will notify the family of its determination in accordance with the policy in Section 11-I.B., Notification Requirements.

#### **Determination of Compliance**

Approximately 30 days before the end of the lease term, DHC will provide written notice requiring the family to submit documentation that all subject family members have complied with the community service requirement. The family will have 10 business days to submit to DHC the required documentation.

If the family fails to timely submit the required documentation, or by a DHC-approved extension, the subject family members will be considered non-compliant with the community service requirements, and notices of non-compliance will be issued pursuant to the policies in Section 11-I.E., Noncompliance.

## **Change in Status between Annual Reexaminations**

### **Exempt to Non-exempt Status**

If an exempt individual becomes non-exempt during the twelve month lease term, it is the head of household's responsibility to report this change to DHC within 10 business days.

Within 10 business days of a head of household reporting such a change or DHC determining such a change is necessary, DHC will provide a 30 day written notice of the effective date of the requirement, a list of agencies in the community that provide volunteer and/or training opportunities, as well as a documentation form on which the family member shall record the activities performed and number of hours contributed.

The effective date of the community service requirement will be the first of the month following the expiration of the 30-day notice period.

### **Determination of Initial Compliance**

When an adult family member becomes subject to community service, he or she must perform 8 hours of community service for each month he or she is subject to the requirement before the end of the lease term (anniversary date). The family member may perform 96 hours of community service in a 12-month period.

#### **Example 1:**

Alberto Jones turns 18 on 5/10/15 and is not exempt from the community service requirement. His community service requirement begins on 6/1/15, and his initial compliance is reviewed before the end of the lease term (anniversary date), which is 11/30/15.

- Alberto must perform 6 months of community service in his initial compliance period, before the end of the lease term (anniversary date).

**Example 2:**

Lisa Dewhurst leaves her job on 9/20/14 and is not exempt from the community service requirement. Her community service requirement begins on 10/1/14, and her initial compliance is reviewed before the end of the lease term (anniversary date), which is 6/30/15.

- Ms. Dewhurst must perform 9 months of community service in her initial compliance period, before the end of the lease term (anniversary date).

### **Non-exempt to Exempt Status**

If a non-exempt person becomes exempt during the twelve-month lease term, it is the head of household's responsibility to report this change to DHC within 10 business days. Any claim of exemption will be verified by DHC in accordance with the policy at 11-I.D., Documentation and Verification of Exemption Status.

Within 15 business days of a head of household reporting such a change, or DHC determining such a change is necessary, DHC will provide the head of household written notice that the family member is no longer subject to the community service requirement, if DHC is able to verify the exemption.

The exemption will be effective immediately.

## **11-I.D. DOCUMENTATION AND VERIFICATION**

### **Documentation and Verification of Exemption Status**

All family members who claim they are exempt from the community service requirement will be required to sign a community service exemption certification form. DHC will provide a completed copy to the head of household and will keep a copy in the resident file.

DHC will verify that an individual is exempt from the community service requirement by following the verification requirements in Chapter 7.

DHC makes the final determination whether or not to grant an exemption from the community service requirement. If a resident does not agree with DHC's determination, s/he can dispute the decision through DHC's grievance procedures (see Chapter 14).

### **Documentation and Verification of Compliance**

If anyone in the family is subject to the community service requirement, DHC will provide the family with community service documentation forms at admission, at lease renewal, when a family member becomes subject to the community service requirement during the lease term, or upon request by the family.

Each individual who is subject to the requirement must record their community service or self-sufficiency activities and the number of hours contributed on the required form. The certification form will include places for signatures and phone numbers of supervisors, instructors, and counselors certifying to the number of hours contributed. Families will be required to annually submit the documentation to DHC.

If DHC has reasonable cause to believe that the certification provided by the family is false or fraudulent, DHC has the right to require third-party verification.

## **11-I.E. NON-COMPLIANCE**

### **Initial Non-compliance**

Violation of the community service requirement is grounds for non-renewal of the lease at the end of the twelve-month lease term, but not for termination of tenancy during the course of the twelve month lease term.

DHC may not evict a family due to CSSR non-compliance. However, if DHC finds a resident is non-compliant with CSSR, DHC must provide written notification to the resident of the non-compliance which must include:

A brief description of the finding of non-compliance with CSSR.

A statement that DHC will not renew the lease at the end of the current 12-month lease term unless the resident enters into a written work-out agreement with DHC or the family provides written assurance that is satisfactory to DHC explaining that the resident or

other non-compliant resident no longer resides in the unit. Such written work-out agreement must include the means through which a non-compliant family member will comply with the CSSR requirement.

The notice must also state that the head of household may request a grievance hearing on DHC's determination, in accordance with DHC's grievance procedures, and that the head of household may exercise any available judicial remedy to seek timely redress for DHC's non-renewal of the lease because of DHC's determination.

The notice of initial non-compliance will be sent at least 30 days before the end of the lease term.

The head of household and non-compliant family member(s) will have 10 business days from the date of the notice of non-compliance to enter into a written work-out agreement to cure the non-compliance over the 12 month term of the new lease, provide documentation that the non-compliant family member no longer resides in the unit, or to request a grievance hearing.

If the head of household reports that a non-compliant family member is no longer residing in the unit, the head of household must provide documentation that the family member has actually vacated the unit before DHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the family member who moved.

If the head of household does not request a grievance hearing, or does not take either corrective action required by the notice of non-compliance within the required 10 business day period, DHC will terminate tenancy in accordance with the policies in Section 13-IV.D.

### **Continued Non-compliance**

Should a family member refuse to sign a written work-out agreement or fail to comply with the terms of the work-out agreement, DHC is required to initiate termination of tenancy proceedings at the end of the current 12-month lease (see 24 CFR 966.53(c)) for failure to comply with lease requirements. When initiating termination of tenancy proceedings,

DHC will provide the following procedural safeguards:

Adequate notice to the resident of the grounds for terminating the tenancy and for nonrenewal of the lease;

Right of the resident to be represented by counsel;

Opportunity for the resident to refute the evidence presented by DHC, including the right to confront and cross-examine witnesses and present any affirmative legal or equitable defense which the resident may have; and A decision on the merits.

Notices of continued non-compliance will be sent at least 30 days prior to the end of the lease term and will also serve as the family's termination notice. The notice will meet the requirements for termination notices described in Section 13-IV.D, Form, Delivery, and Content of the Notice. The head of household will have 10 business days from the date of the notice of noncompliance to provide documentation that the non-compliant family member no longer resides in the unit, or to request a grievance hearing.

If the head of household reports that a non-compliant family member is no longer residing in the unit, the head of household must provide documentation that the family member has actually vacated the unit before DHC will agree to continued occupancy of the family. Documentation must consist of a certification signed by the head of household as well as evidence of the current address of the non-compliant family member who moved.

If the head of household does not request a grievance hearing or provide such documentation within the required 10 business day period, the family's lease and tenancy will automatically terminate at the end of the current lease term without further notice.

## **PART II: IMPLEMENTATION OF COMMUNITY SERVICE**

### **11-II.A. OVERVIEW**

DHC must develop a policy for administration of the community service and economic self-sufficiency requirements for public housing. It is in DHC's best interests to develop a

viable, effective community service program, to provide residents the opportunity to engage in the community and to develop competencies.

### **PHA Implementation of Community Service**

DHC may not substitute any community service or self-sufficiency activities performed by residents for work ordinarily performed by DHC employees or replace a job at any location where residents perform activities to satisfy the community service requirement.

DHC will notify its insurance company if residents will be performing community service at DHC. In addition, DHC will ensure that the conditions under which the work is to be performed are not hazardous.

If a disabled resident certifies that s/he is able to perform community service, DHC will ensure that requests for reasonable accommodation are handled in accordance with the policies in Chapter 2.

### **DHC Program Design**

DHC will attempt to provide the broadest choice possible to residents as they choose community service activities.

DHC's goal is to design a service program that gives residents viable opportunities to become involved in the community and to gain competencies and skills. DHC will work with resident organizations and community organizations to design, implement, assess and recalibrate its community service program.

DHC will make every effort to identify volunteer opportunities throughout the community, especially those in proximity to public housing developments. To the greatest extent possible, DHC will provide names and contacts at agencies that can provide opportunities for residents, including persons with disabilities, to fulfill their community service obligations.

Any written agreements or partnerships with contractors and/or qualified organizations, including resident organizations.

DHC will provide in-house opportunities for volunteer work or self-sufficiency programs,



when possible.

When DHC has a ROSS program, a ROSS Service Coordinator, or an FSS program, DHC will coordinate individual training and service plans with the community service requirement. Regular meetings with DHC coordinators will satisfy community service activities and DHC coordinators will verify community service hours within individual monthly logs.

## **11-II.B. FAMILY SELF SUFFICIENCY PROGRAM**

In fiscal year 2014 FSS, funding for the public housing (PH) and the Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) Programs was combined making the two separate programs one with a common FSS Action Plan.

The FSS Action Plan describes the policies and procedures to operate the combined DHC FSS Program. DHC FSS Coordinators are DHC's staff who implement, administer and monitor the FSS Program and its participants' progress.

The FSS Program enables HUD-assisted families to increase their earned income and reduce their dependency on welfare assistance and rental subsidies. The FSS Program design provides a pathway to self-sufficiency, homeownership, suitable employment and education opportunities. The FSS Program draws heavily upon the combined efforts of tailored case management, partnerships with specialized local service providers, and an established Program Coordinating Committee (PCC).

The FSS Program is a voluntary program and available to all DHC public housing residents and Housing Choice Voucher Program participants who are in good standing with DHC, and Family Unification Program (FUP) participants. Once an eligible family is selected to participate in the FSS program, the head of each participating family executes a FSS Contract of Participation (FSS Contract) that specifies the rights and responsibilities of both DHC and the Head of Household (HOH). The term of the FSS Contract is generally 5 years, but it may be extended for another 2 years by DHC for good cause. The FSS Contract also incorporates the family's Individual Training and Services Plan (ITSP).

The ITSP is the document that records the FSS plan for the family. That is, the series of intermediate and long-term goals and the steps the family needs to take and the services and resources they may need to access to achieve those goals. Some of the services coordinated through the FSS Program include: child care, transportation, education, job training, employment counseling, financial literacy, and homeownership counseling, among others. Services are generally not provided by DHC, but rather outsourced to service providers in the community.

For each FSS Program participant, DHC establishes an interest-bearing escrow savings account. Over the course of the five-year FSS Program the participant's rent increases as a result of increased earned income resulting in eligible amounts being placed in an escrow savings balance which the participant is eligible to receive upon completion of FSS Program goals. Once the participant is eligible for graduation from the FSS Program, they will be awarded the escrow balance to use for any purpose.

### **Administration of the FSS Program:**

DHC works in collaboration with its PCC (an advisory committee comprised of an array of organizations) to secure commitments of public and private resources for the operation of its FSS Program. The committee meets at a minimum annually but no more than twice a year. Some of the more distinctive DHC PCC partners include:

1. . Workforce Investment Board Members
2. . Financial Literacy and Credit Counseling Providers
3. . Healthcare Providers
4. . Financial Institutions
5. . Local Businesses
6. . Community and/or 4-Year Colleges

Regulations require that the PCC include representatives from DHC and public housing resident and HCV participants. The PCC assists DHC in developing the FSS Action Plan and operating procedures and in identifying service gaps and securing service commitments from public and private resources. DHC intends for all participants to graduate from the FSS Program and become self- sufficient renters, or homeowners with

the capacity to obtain better jobs and seek higher educational opportunities.

### **Participant Selection:**

1. The FSS Program is a voluntary program and available to all DHC PH residents and HCV participants who are in good standing with DHC, and Family Unification Program (FUP) participants. FSS staff regularly conducts outreach initiatives for the aforementioned participants including but not limited to:
2. Distribution of FSS interest forms, flyers, classified ads offering employment opportunities,
3. FSS interest forms, program flyers and invitation letters are mailed out notifying potential participants of the availability of the FSS Program and the offer to enroll.
4. Public FSS briefing sessions.
5. Staff coordinates and facilitates information sessions to provide potential participants with details of the FSS Program and application packages.

DHC anticipates filling approximately 285 slots for individuals and families willing to participate in the FSS Program. Those individuals or families interested in enrollment will complete the necessary interest and/or enrollment forms and return them to DHC FSS staff members:

1. Contract of Participation (COP)
2. Individual Training and Services Plan (ITSP)
3. FSS Needs Assessment Questionnaire

FSS Coordinators will follow-up with new participants and schedule a private consultation to develop a personalized family needs assessment and action plan. DHC will not discriminate based on race, religion, sex, disability status, family status, gender identity, or national origin. Assistance will be given to all participants that require assistance completing the FSS materials. A family's election not to participate in the FSS Program will not affect the family's admission to PH or to the HCV programs or the family's right to occupy in accordance with its lease. While DHC does not anticipate that the demand for

the FSS Program will exceed the number of available FSS slots, should demand exceed supply, DHC will establish a waiting list utilizing the following preferences:

1. Persons currently participating in a documented self-sufficiency activity will be given first preference for up to 50% of FSS Program slots. Such activity includes, but is not limited to, job training, educational programs, employment programs DHSsponsored training activities.
2. After applying the above preference, a preference will be given based on length of time in such self-sufficiency program, i.e. those individuals or families with longer program tenure will be served first.

### **The FSS Contract of Participation (FSS Contract):**

One of the basic requirements of the FSS Program is the execution of an FSS Contract between the HOH of the FSS family and DHC. The FSS Contract includes the rights and responsibilities of the FSS family and DHC, the services to be provided to the family, and the activities to be completed by the family.

The term of the FSS Contract is up to five years; however, such term may be extended for up to two more years provided that there is good cause for the extension, such as serious illness or involuntary loss of employment. If DHC decides to extend the term of the FSS Contract, the original expiration date listed on page one of the contract must be crossed out and the new expiration date added. If a family moves under HCV portability procedures and is going to participate in the receiving HA's FSS Program, the effective date of the contract between the family and the receiving HA is the first day of the month following the date the FSS Contract was signed by the family and the receiving HA's representative. The expiration date of the FSS Contract between the receiving HA and the family must be the same as the expiration date of the FSS Contract between the initial HA and the family.

### **Modifications to the FSS Contract:**

The FSS Contract can only be changed to modify the contract term, the HOH, or the ITSP. Any change of the HOH of the family under the FSS Contract must be included as an attachment to the FSS Contract. The attachment must contain the name of the new

designated HOH of the family, the signatures of the new HOH of the family and a DHC representative, and the date signed. Any change/s to an ITSP must be included as a revision to the ITSP (attachment) to which the change applies. The revision must include the item changed, signatures of the participant and a DHC representative, and the date signed.

If, twelve months after the effective date of the FSS Contract, a HCV family in the FSS Program moves outside of DHC's jurisdiction under HCV portability procedures, DHC may take one of the following actions:

1. DHC may permit the family to continue to participate in its FSS Program, if the family demonstrates to DHC's satisfaction that it can meet the family responsibilities of the FSS Contract in the new location. In this case, the existing
2. FSS Contract remains in effect with no change. DHC will transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA.
3. The receiving HA may permit the family to participate in its FSS Program. If so, DHC will terminate its FSS Contract with the family. DHC will transfer the family's
4. FSS escrow account balance when the family is absorbed by the receiving HA. The receiving HA will execute a new FSS Contract with the family.
5. In cases where the family cannot fulfill its family obligations in the new location, and the receiving HA does not permit the family to participate in its FSS Program, the FSS Contract between DHC and the family shall terminate, and the family will lose the funds in its FSS escrow account.

### **Completion of FSS Contract:**

Completion of the FSS Contract occurs when DHC determines that:

1. The family has fulfilled all of its responsibilities under the FSS Contract or
2. 30% of the family's monthly adjusted income equals or is greater than the Fair Market Rent amount for the unit size for which the family qualifies.

### **Termination of the FSS Contract:**

DHC may terminate a family's FSS Contract if:

1. The family and DHC mutually agree to terminate the FSS Contract
2. DHC determines that the family has not fulfilled its responsibilities under the FSS Contract
3. The family withdraws from the FSS Program
4. If the family commits fraud, violates its lease, or is found non-compliant with housing assistance regulations, which causes the family to be evicted.
5. An act occurs that is inconsistent with the purpose of the FSS Program, or
6. DHC is permitted to terminate the FSS Contract in accordance with HUD requirements

The FSS Contract requires that the family comply with the lease. To that end, any lease violations, PH or HCV program violations that result in eviction from housing assistance or any FUP violations will automatically terminate the family from the FSS Program.

DHC may declare the FSS Contract null and void if the resources and services necessary to complete the FSS Contract are not available. DHC will give notice of termination or nullification to the HOH of the family. The notice must state the reasons for DHC's decision to terminate or nullify the FSS Contract. If the FSS Contract is terminated or declared null and void, the family has no right to receive funds from the family's FSS escrow account. DHC will close the family's FSS escrow account and may use the funds for purposes in accordance with HUD requirements.

If the family is participating in the HCV program, DHC will terminate the FSS Contract if the family moves outside DHC's jurisdiction under portability procedures and enters the FSS Program of another HA. If the family is participating in the HCV program, the FSS Contract is automatically terminated if the family's assistance is terminated in accordance with HUD requirements.

For individuals participating in the FUP see termination guidelines in section below regarding: Family Unification Program (FUP) and Self Sufficiency (FSS) Program:

### **Conflict with the Public Housing Lease**

If part of the FSS Contract conflicts with the PH lease, the lease will prevail.

## **Compliance with HUD Regulations and Requirements**

The FSS Contract must be interpreted and administered in accordance with HUD regulations and requirements. Terms and figures, such as the income and rent amount, are subject to correction by DHC for compliance with HUD regulations and requirements. DHC will notify the family in writing of any adjustments made to the FSS Contract.

### **The FSS Family Responsibilities:**

1. All FSS family members (including family members within the household) **MUST** BE welfare-free for the 12 consecutive months before the FSS Contract is completed,
2. HOH of the FSS family (the same as the HOH for rent and income eligibility purposes) must seek and maintain suitable employment.
3. All FSS family members (including family members within the household) **MUST** complete activities listed on the ITSP within appropriate listed dates
4. All FSS family members (including family members within the household) **MUST** comply with lease terms
5. All FSS family members (including family members within the household) **MUST** comply with HCV or FUP policies and procedures, as required.

Noncompliance with the FSS Contract without good cause may result in termination from the FSS Program, or withholding or termination of supportive services, and a forfeiture of any and all accumulated escrow savings. Termination (or exit) from the FSS Program may not result in termination of the family's DHC-provided assistance.

### **DHC Responsibilities:**

DHC will:

1. Attempt to obtain commitments from private and public sources for supportive services for FSS families
2. Establish a FSS escrow account for families eligible for escrow credits and provide family with an annual report on the FSS escrow balance

3. Determine if the family has completed the FSS Contract
4. Pay the family the FSS escrow account balance, if they have completed the FSS Contract and HOH has provided written certification that no member of the household has receiving welfare assistance for 12 consecutive months before completion of the FSS Contract.

### **Individual Training and Services Plan (ITSP):**

The FSS Contract must include an ITSP for the HOH of the family. Other family members age eighteen and older may choose to execute an ITSP if agreed to by DHC. The resources and supportive services to be provided to each family member will be listed in the ITSP as attachments to the FSS Contract. Page one of each participant's ITSP includes space for the final goal and the first interim goal needed to achieve the final goal.

The additional pages provide a format for recording each interim goal and specific information related to its achievement. The first page of each participant's ITSP must be signed by the participant and a DHC representative. Interim goals must be specified along with the activities and services needed to achieve them. All completion dates included in the ITSP will be on or before the FSS Contract expires. One of the interim goals for families receiving welfare assistance is to become independent of welfare assistance for at least twelve consecutive months before the end of the FSS Contract. Any family that is receiving welfare assistance must have this included as an interim goal in the HOH of the family's ITSP. The final goal listed on the ITSP of the HOH of the family must include getting and maintaining suitable employment specific to that individual's skills, education, job training, and the available job opportunities in the area.

### **Implementation of ITSP:**

DHC FSS Coordinators will serve as participants assigned FSS case manager for the entire FSS Program. They will assist participating families in the development of the ITSP, assure that FSS Program participants are linked to the supportive services they need to achieve economic self-sufficiency, and that the escrow account is properly maintained, among other responsibilities.

DHC FSS Coordinators will monitor each participating family's progress, identify and



resolve obstacles, identify resources to provide access to job placement, job training, personal and professional development, and homeownership opportunities. Participant information related to their FSS progress will be updated periodically through interim and annual re-certifications. The following services will be provided to every FSS participant:

1. A general assessment to evaluate individual needs relating to employment, job specific skills training, literacy, and personal and professional development
2. Development of an ITSP to include measurable goals and objectives
3. Providing resources, tools and supportive services through DHC partnerships with local businesses, community organizations and local agencies
4. Matching participants to job specific training, education, literacy, and employment preparation opportunities
5. Providing access to employment placement opportunities
6. Providing overall case management including but not limited to, monitoring participants' progress, follow-up telephone calls, letters, and in-office meetings

### **The Escrow Account:**

The FSS escrow account is an interest-bearing account established by DHC on behalf of the FSS family where deposits are made throughout the duration of the family's participation in the FSS Program if and when a family's rent increases as a result of increased earned income of the FSS family. Listed on page one of the FSS Contract is the family's annual income, earned income, and family rent when the family begins the FSS Program. These amounts will be used to determine the amount credited to the family's FSS escrow account because of future increases in earned income. Funds shall be credited 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.

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 FSS Contract. DHC must review and approve an interim withdrawal. One interim withdrawal may occur annually. Expenditures for which DHC will give consideration for FSS escrow account withdrawals will include, but not be limited to, 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. DHC will have sole discretion on what withdrawals can be utilized for and will provide participant with a written approval to initiate the withdrawal process.

A FSS family graduates from the program when they have completed the FSS Contract. The HOH must submit to DHC certification that no member of the family is a recipient of welfare assistance within the last 12 months of the last year of the FSS Contract. FSS staff will verify information by telephone or in writing from the welfare agency. Upon graduation the HOH becomes eligible to receive the amount in the FSS escrow account, in excess of any amount owed to DHC. A family may only graduate one time from the FSS Program. If the participant does not complete the FSS Contract, one (1) year must lapse from the day the participant exited the FSS Program before an FSS interest form may be considered for future FSS Program participation.

### **Forfeiture of Escrow Funds:**

Amounts in the FSS escrow account will be forfeited if:

- 1) The FSS Contract 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 FSS Contract is completed but the family is receiving welfare assistance at the time of expiration of the term of the FSS Contract, including any extension, or has received welfare assistance within 12 months of the expiration of the term of the FSS Contract, including any extension.

Forfeited funds will be treated as program receipts for payment of HCV and/or PH Program expenses in accordance with HUD requirements governing the use of FSS Program

receipts.

## **Graduation/FSS Program**

A FSS family graduates from the program when they have completed the FSS Contract. A family may participate and graduate only one time from the FSS program. If the participant does not complete the FSS Contract, one (1) year must lapse from the day the participant exited the FSS Program before a FSS interest form may be considered for future FSS Program participation.

## **Family Unification Program (FUP) and Self Sufficiency (FSS) Program:**

DHC's FUP and FSS Program extends to two types of participants –

1. Persons 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.
2. Child-welfare involved families, 18+ years of age, for which the lack of adequate housing is the primary reason for imminent out-of-home placement of children or delays in family reunification.

While all DHC adult HOH FUP participants can benefit from the self-sufficiency component of the FSS Program, DHC's FUP FSS Program will target the youth leaving out of foster care at age 16 or older in an effort to reduce the current rate of homelessness amongst this population. DHC's FUP FSS Program intends to secure housing for as many Public Child Welfare Agency (PCWA) eligible youth as possible. With HUD's approval, DHC will 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 to maintain housing assistance for a period not exceeding the length of the FSS Contract. The FSS Contract is generally no more than five (5) years, however if the FSS Contract is extended per 24 CFR 984.303d, the FUP voucher can be extended for the entire length of the FSS Contract. All DHC FSS Program policies and procedures described above apply to the

FUP/FSS Program as well. FUP/FSS participants will be held to the same regulations detailed above.

### **Participant Selection:**

At the inception of the FUP/FSS Program, current FUP participants will be given the opportunity to participate in the FUP/FSS Program. The FSS Contract requirements and compliance/noncompliance terms will be reviewed with the FUP participant prior to signing the FSS Contract. The current FUP participant will be afforded the full length of the FSS Contract 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 an FSS Contract.

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. DHC has partnered with Michigan Department of Health & Human Services (MDHHS), which will send referrals to DHC's HCV department for enrollment in the FUP Program. The initial announcement of the FUP/FSS Program will happen at the PCWA level with posted flyers and counseling sessions. The outreach will include, but not be limited, to FUP applicants and participants. Additionally, the FUP/FSS Program applicants are subject to the eligibility requirements and policies outlined in DHC's Housing Choice Voucher Administrative Plan.

If a FUP/FSS Program participant fails to comply with the terms and conditions of the FSS Contract without good cause and is terminated from the FSS Program, or if the participant voluntarily leaves 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 participant.

Like all FSS participants, FUP/FSS participants will work directly with DHC FSS staff who will serve as their case managers for the entire FUP/FSS Program. The following services will be provided to each FUP/FSS participant:

1. A general assessment to evaluate individual needs relating to employment, job specific skills training, literacy, and personal and professional development
2. Developing an ITSP to include measurable goals and objectives
3. Providing resources, tools and supportive services through DHC partnerships with local businesses, community organizations and local agencies
4. Matching participants to job specific training, education, literacy, and employment preparation opportunities
5. Providing access to employment placement opportunities
6. Providing overall case management including but not limited to monitoring participants' progress, follow-up telephone calls, letters, and in-office meetings

### **FUP Outreach**

DHC will outreach to all eligible FUP participants of the FUP/FSS Program through:

1. Outreach flyers posted via partners' locations at Covenant House, Department of Human Services, Don Bosco Family Center, Detroit Workforce Development Department, Michigan Works Offices, and Michigan Rehabilitation Workforce Offices.
3. Outreach flyers, FSS interest forms, and FSS Contracts will be presented to potential participants at the PCWA FUP Program briefing sessions.
4. Direct mail invitation to persons identified on the HUD Form 92006

### **FUP Outreach for Participants with disabilities**

In addition to the aforementioned outreach efforts, DHC will include the following for youth with disabilities:

1. Creation of promotional messages with welcoming language, examples include:
2. "We encourage people with disabilities and from other diverse backgrounds to apply. We do not discriminate based on disability."
3. "We provide reasonable accommodations as needed to people with disabilities."
4. "Our office is wheelchair-accessible."
5. "Our participants reflect a wide range of socio-economic, cultural and religious

affiliations within their countries, including people with disabilities."

6. Recruitment materials such as brochures, websites and posters will include images of people with disabilities.
7. Network with local, regional and national organizations
8. Disability services offices, rehabilitation organizations, and support groups

### **FSS and FUP/FSS Grievance and Hearing Procedures For FSS and FUP/FSS**

#### **Program applicants:**

- An informal review will be provided to applicants for a decision to deny participation in the FSS or FUP/FSS Program.

#### **For FSS and FUP/FSS Program participants:**

- An informal hearing will be provided to participants for a decision to deny or terminate assistance.

## **CHAPTER 12: TRANSFER POLICY**

### **INTRODUCTION**

This chapter describes DHC policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs. All emergency transfers concerning victims of domestic violence, dating violence, sexual assault, and stalking are handled under Chapter 16 of this ACOP which addresses the requirements under the federal Violence Against Women Act,9 VAWA). Emergency Transfer Plan. Emergency transfers requested due to VAWA violations are prioritized below in Part I of Emergency Transfers in this Section.

Part II: DHC Required Transfers. This part describes types of transfers that may be required by DHC, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, de-concentration, transferring to another development and reexamination.

DHC may require the resident to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the resident must be provided, that may or may not require a transfer.

The resident may also request a transfer, such as a request for a new unit as a reasonable accommodation.

## **PART I: EMERGENCY TRANSFERS**

### **12-I.A. OVERVIEW**

This section discusses DHC's policies related to emergency transfers.

### **12-I.B. EMERGENCY TRANSFERS**

The following is considered an emergency circumstance warranting an immediate transfer of the resident or family:

Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

Other circumstances as determined by the Executive Director or designee.

A resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as provided per HUD regulations, is eligible for an emergency transfer, if: The resident reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit. If the resident is a victim of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A resident requesting an emergency transfer must expressly request the transfer in accordance with DHC's Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking as stated in Chapter 16 of the ACOP. Residents who are not in good standing may still request an emergency transfer if they meet the eligibility requirements noted in this section.

### **12-I.C. EMERGENCY TRANSFER PROCEDURES**

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, DHC will provide temporary accommodations to the



resident by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, DHC will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers are mandatory for the resident.

## **12-I.D. COSTS OF TRANSFER**

DHC will bear the reasonable costs of temporarily accommodating the resident and of long term transfers, if any, due to emergency conditions.

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

DHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, DHC will collect information from companies in the community that provide these services.

DHC will reimburse the family for eligible out-of-pocket moving expenses up to DHC's established moving allowance or DHC may move the resident with its staff or contracted services.

DHC may pay all necessary utility transfer charges.

## **PART II: DHC REQUIRED TRANSFERS**

### **12-II.A. OVERVIEW**

DHC may require that a resident transfer to another unit under some circumstances.

### **12-II.B. TYPES OF DHC REQUIRED TRANSFERS**

The types of transfers that may be required by DHC, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, units determined to be uninhabitable, and emergency transfers as discussed

in Part I of this chapter.

Transfers classified as required by DHC are mandatory for the resident.

### **Transfers to Make an Accessible Unit Available**

When a family is initially given an accessible unit, but does not require the accessible features, when a non-accessible unit becomes available, DHC will transfer the family to an available unit that is not accessible. DHC may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

### **Occupancy Standards Transfers**

DHC will transfer a family when the family size has changed, and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on DHC's occupancy standards as described in Section 5-I.B. DHC may also transfer a family that was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on DHC's occupancy standards, when DHC determines there is a need for the transfer.

DHC may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by DHC that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

## **Families Involuntarily Displaced by DHC's Action**

### **Demolition, Disposition, Revitalizations, or Rehabilitation Transfers**

DHC will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. DHC's relocation plan requires transferring affected families to other available public housing units during the rehabilitation.

If the relocation plan calls for transferring residents to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under the Uniform Relocation Act provisions, and may be allowed to return to their unit, depending on occupancy standards and contractual and legal obligations, once revitalization or rehabilitation is complete.

### **12-II.C. ADVERSE ACTION**

A DHC-required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, DHC may not take action on the transfer until the conclusion of the grievance process.

### **12-II.D. COST OF TRANSFER**

DHC may bear the reasonable costs of required transfers up to the maximum moving allowance as published by DHC annually.

The reasonable costs of transfers include the cost of packing, moving, and unloading.

DHC will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, DHC will collect information from companies in the community that provide these services.

DHC may reimburse the family for eligible out-of-pocket moving expenses up to DHC's

established moving allowance or DHC may move the resident with its staff or contracted services. When an accessible unit becomes vacant, DHC must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability.

## **PART III: TRANSFERS REQUESTED BY RESIDENTS**

### **12-III.A. OVERVIEW**

The only requests that DHC is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of DHC. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by DHC.

### **12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS**

The types of requests for transfers that DHC will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, providing no family member is involved, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to DHC's occupancy standards, and transfers to a location closer to employment. In cases where DHC may have to offer housing to non near-elderly families due to an insufficient number of applicants on a wait list at a Senior Designated development, DHC may permit transfers of Elderly families occupying a unit at Senior Designated Developments to other Senior Designated Developments. No other transfer requests will be considered by DHC.

DHC will consider the following as high priority transfer requests:

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature.

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at DHC's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual

assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may also be established through documentation outlined in section 16-VII.D, or by any proof accepted by DHC.

When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features.

DHC may elect to process "Split-family transfers" as an administrative necessity, a modernization or rehabilitation project, or as a reasonable accommodation as verified for a family with a disabled household member, where such transfer is the optimal means of complying with the accommodation. Families that split into two or more "new" households may be transferred to two or more different units or a portion of the "old" household may be transferred to a single unit depending on family circumstances and unit availability. Options for split-family transfers will be considered in order to minimize the impact on vacant units. Such transfers will be made in a manner that best mirrors the DHC mission. Each head of household (for both the "old" and "new" households) must meet DHC's eligibility and suitability criteria prior to approval of the split-family transfer.

### **12-III.C. ELIGIBILITY FOR TRANSFER**

Except where a reasonable accommodation is being requested, DHC will only consider transfer requests from residents that meet the following requirements:

Residency in a DHC housing unit for at least one (1) year prior to the transfer request date.

Have not engaged in criminal activity that threatens the health and safety of residents and staff.

Must get utilities turned on in the name of a person age 18 or older and maintain utilities during tenancy (applicable only to properties with resident-paid utilities).

Account balance must be zero dollars (\$0.00), or have a credit balance, prior to transfer.

No more than two late rent payments for the twelve (12) month period preceding

the transfer request date. No more than one (1) Repayment Agreement within the two (2) year period preceding the transfer request and transfer offer date. NOTE: This requirement may be waived at the discretion of DHC for residents with a current Repayment Agreement which was made effective prior to July 1, 2017.

No case or writ filings in landlord/tenant court in the twelve (12) month period preceding the transfer request and transfer offer date.

Meet reasonable housekeeping standards in the twelve (12) month period preceding the transfer request and transfer offer date.

Compliant with all other lease requirements.

Resident who are seeking emergency transfers because of VAWA violations are not required to be in good standing with DHC as required in the previous paragraphs. For transfers to Scattered Sites units, transfers will be granted on an incentive basis. Priority will be given to families which participate in HUD's Family Self-Sufficiency Program or another HUD- and/or DHC-approved self-sufficiency or job training program. Property Managers may recommend residents in good standing to be granted a Scattered Sites transfer. All other transfer eligibility requirements noted in this section must also be met. Exceptions regarding transfers to Scattered Sites must be approved by the Director of Real Estate Management or designee.

Exceptions may also be made when DHC determines that a DHC-required transfer is warranted or is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

### **12-III.D. SECURITY DEPOSITS**

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-III.E. COST OF TRANSFER**

The resident will bear all of the costs of transfer s/he requests. However, DHC will bear the transfer costs when the transfer is done as a reasonable accommodation.

#### **12-III.F. HANDLING OF REQUESTS**

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In case of a reasonable accommodation transfer, DHC will encourage the resident to make the request in writing using a reasonable accommodation request form. However, DHC will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

DHC will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP.

If the family does not meet the requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied. While on the transfer list, if a family ceases to meet all eligibility requirements, DHC may remove the family from the transfer list. If DHC elects to remove the family from the transfer list, the resident will be notified in writing of DHC’s decision and reason(s) for transfer list removal.

DHC will respond within 15 business days of the submission of the family’s request. If DHC denies the request for transfer, the family will be informed of its grievance rights.

## **PART IV: TRANSFER PROCESSING**

### **12-IV.A. OVERVIEW**

Generally, transfers should be placed on a transfer list and handled in the appropriate order.

### **12-IV.B. TRANSFER LIST**

DHC will maintain a centralized, auditable transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. High-priority transfers (verified medical condition, threat of domestic violence as set forth under the Violence Against Women Act or other harm or criminal activity, and reasonable accommodation) - Transfers to make accessible units available - Demolition, renovation, etc.
3. Occupancy standards
4. Other DHC-required transfers
5. Other resident-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the Executive Director or designee, DHC may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow



DHC to meet the demolition or renovation schedule.

Only high-priority transfers, and those mandated by DHC (excluding Occupancy standards transfers), will have priority over new admissions.

Occupancy standards transfers will be processed at the ratio of one occupancy standards transfer for every five new admissions DHC-wide. Resident-requested transfers will be processed at the ratio of one (1) resident-requested transfer for up to every ten (10) waiting list admissions DHC-wide.

These ratios can be adjusted at the discretion of the Executive Director or designee, if it is determined that it is in the best interests of DHC and the family to approve the transfer.

An adjustment to the ratios is permissible when DHC must comply with occupancy standards in accordance with HUD requirements and federal state and local laws.

If during the family's annual recertification, it is determined that a household is over/under housed by two or more bedrooms, DHC will place those households at the top of the Occupancy Transfer List based on the completion date of the re-examination.

If at any point, DHC identifies that 20% or more of families are verified as over/under housed, DHC-wide, DHC **may** conduct a mass transfer, of those families, to comply with DHC's subsidy standards. Household compositions will be monitored quarterly.

Once DHC has initiated an action for a family (e.g., recertification, relocation, etc.) that warrants a transfer of the family to another appropriately sized unit, DHC will not permit additions to the household without the approval of the Director of Real Estate Management, or his/her designee. The transfer will be based on the current household composition at the time of DHC's initiation of action. DHC will not approve the addition of new family or household members for (12) twelve months following the completion of the most recent transfer action, other than a household addition due to birth, adoption, court-awarded custody, or marriage, if it will require the family to transfer to a larger size unit under the transfer policy in Chapter 12. If a family makes a request to add a family member with twelve (12) months, DHC will consider demonstrated medical needs or other extenuating circumstances, including reasonable accommodation, in deciding whether to approve the addition to the household.

## **12-IV.C. TRANSFER OFFER POLICY**

Residents will receive one offer of a transfer or unit reassignment, at the discretion of DHC.

Residents will have three (3) business 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.

## **12-IV.D. GOOD CAUSE FOR UNIT REFUSAL**

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to DHC's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to DHC's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the

accessible features in the unit offered and does not want to be subject to a 30-day notice to move.

The unit has lead-based paint and the family includes children under the age of six.

DHC will require documentation of good cause for unit refusals.

#### **12-IV.E. DECONCENTRATION**

If subject to deconcentration requirements, DHC will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve DHC's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

#### **12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS**

The date of the transfer does not change the annual recertification date. The Site Manager of the new development should be certain that the annual review is properly scheduled to give staff time to re-determine rent in order to meet the established recertification date.

## CHAPTER 13 LEASE TERMINATIONS

### INTRODUCTION

A public housing lease is different from a private dwelling lease in that the family's rental assistance is tied to their tenancy. When the family moves from their public housing unit, they lose their rental assistance. Therefore, there are additional safeguards to protect the family's tenancy in public housing.

Likewise, there are safeguards to protect HUD's interest in the public housing program, to assure that qualified families are provided decent, safe, and sanitary housing which is in good repair. DHC may terminate the lease because of the family's failure to comply with HUD regulations, for serious or repeated violations of the terms of the lease, and for other good cause. HUD regulations specify some reasons for which DHC can terminate a family's lease and give DHCs authority to determine other reasons.

When determining DHC policy on terminations, state landlord-tenant laws must be considered. These laws may be either more or less restrictive than federal law or HUD regulations.

This chapter presents the policies that govern both the family's and DHC's termination of the lease. It is presented in four parts:

Part I: Termination by Resident. This part discusses the family's voluntary termination of the lease and the requirements DHC places upon families who wish to terminate their lease.

Part II: Termination by DHC - Mandatory. This part describes the policies that govern how, and under what circumstances, a mandatory lease termination by DHC occurs. This part also includes non-renewal of the lease for non-compliance with community service requirements.

Part III: Termination by DHC – Other Authorized Reasons. This part describes DHC's options for lease termination that are not mandated by HUD regulations but for which HUD authorizes DHCs to terminate. For some of these options HUD requires DHC to establish policies and lease provisions for termination, but termination is not mandatory.

For other options DHC has full discretion whether to consider the options as just cause to terminate as long as DHC policies are reasonable, non-discriminatory, and do not violate state or local landlord-tenant law. This part also discusses the alternatives that DHC may consider in lieu of termination, and the criteria DHC will use when deciding what actions to take.

Part IV: Notification Requirements. This part presents the federal requirements for disclosure of criminal records to the family prior to termination, the HUD requirements and DHC policies regarding the timing and content of written notices for lease termination and eviction, and notification of the post office when eviction is due to criminal activity. This part also discusses record keeping related to lease termination.

## **PART I: TERMINATION BY TENANT**

### **13-I.A. RESIDENT CHOOSES TO TERMINATE THE LEASE**

If a family desires to move and terminate their tenancy with DHC, they must give at least 30 calendar days advance written notice to DHC of their intent to vacate. When a family must give less than 30 days' notice due to circumstances beyond their control DHC, at its discretion, may waive the 30-day requirement.

The notice of lease termination must be signed by the head of household, spouse, or co-head and delivered to the development office or sent by pre-paid first-class mail, properly addressed to the development office.

## **PART II: TERMINATION BY DHC – MANDATORY**

### **13-II.A. OVERVIEW**

HUD requires DHC to terminate the lease in certain circumstances. In other circumstances HUD requires DHC to establish provisions for lease termination, but it is still DHC's option to determine, on a case-by-case basis, whether termination is warranted. For those resident actions or failures to act where HUD requires termination, DHC has no such option. In those cases, the family's lease must be terminated. This part describes situations in which HUD requires DHC to terminate the lease.

### **13-II.B. FAILURE TO PROVIDE CONSENT**

DHC must terminate the lease if any family member fails to sign and submit any consent form s/he is required to sign for any reexamination. See Chapter 7 for a complete discussion of consent requirements.

### **13-II.C. FAILURE TO DOCUMENT CITIZENSHIP**

DHC must terminate the lease 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, resulting in no eligible family members; 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), such termination must be for a period of at least 24 months. This does not apply to ineligible non-citizens already in the household if the family's assistance has been prorated.

See Chapter 7 for a complete discussion of documentation requirements.

### **13-II.D. FAILURE TO DISCLOSE AND DOCUMENT SOCIAL SECURITY NUMBERS**

DHC must terminate assistance if a family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number (SSN). However, if the family is otherwise eligible for continued program assistance, and DHC determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, DHC may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date DHC determined the family to be non-compliant if there is a reasonable likelihood that the family will be able to disclose a SSN by the deadline.

See Chapter 7 for a complete discussion of documentation and certification requirements.

### **13-II.E. FAILURE TO ACCEPT DHC'S OFFER OF A LEASE REVISION**

DHC must terminate the lease if the family fails to accept DHC's offer of a lease revision to an existing lease, provided DHC has done the following:

The revision is on a form adopted by DHC in accordance with federal requirements pertaining to requirements for notice to residents and resident organizations and their opportunity to present comments.

DHC has made written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect.

DHC has specified in the offer a reasonable time limit within that period for acceptance by the family.

See Chapter 8 for information pertaining to DHC policies for offering lease revisions.

### **13-II.F. METHAMPHETAMINE CONVICTION**

DHC must immediately terminate the lease if DHC determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

See Part 13-III.B. below for the HUD definition of premises.

### **13-II.G. LIFETIME REGISTERED SEX OFFENDERS**

Should DHC discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, DHC must immediately terminate assistance for the household member.

In this situation, DHC must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DHC must terminate assistance for the household.

### **13-II.H. NONCOMPLIANCE WITH COMMUNITY SERVICE REQUIREMENTS**

DHC is prohibited from renewing the lease at the end of the 12-month lease term when

the family fails to comply with the community service requirements as described in Chapter 11.

### **13-II.I. DEATH OF A SOLE FAMILY MEMBER**

DHC must immediately terminate the lease following the death of the sole family member. Refer to the Supplemental ACOP Policies for the specifics requirements related to the handling of the unit of a deceased resident.

### **13-II.J. OVER\_INCOME FAMILIES [24 CFR 960.507; FR Notice 7/26/18; Notice PIH 2023-03; FR Notice 2/14/23]**

In the public housing program, an *over-income family* is defined as a family whose income exceeds the over-income limit for 24 consecutive months. When this occurs, the PHA must either:

- Terminate the family's tenancy within six months of the PHA's final notification of the end of the 24-month grace period; or
- Within 60 days of the PHA's final notification of the end of the 24-month grace period or the next lease renewal (whichever is sooner), have the family execute a new lease that is consistent with 24 CFR 960.509 and charge the family a monthly rent that is the higher of the applicable fair market rent (FMR) or the amount of monthly subsidy for the unit, including amounts from the operating and capital funds.

However, a PHA that owns or operates fewer than 250 public housing units may continue to lease public housing units to families whose incomes exceed the low-income limit at initial occupancy in accordance with 24 CFR 960.503. Otherwise, the PHA must establish a continued occupancy policy for over-income families in the ACOP indicating which of the above will occur.

For families whose income exceeds the over-income limit for 24 consecutive months, DHC will not terminate the family's tenancy and will charge the family the alternative non-public housing rent, as well as require the family to sign a new non-public housing lease in accordance with the continued occupancy policies below.

#### **Over-Income Limit [Notice PIH 2023-03]**

The PHA must publish over-income limits in their ACOP and update them no later than 60 days after HUD publishes new income limits each year. The over-income limit is calculated by multiplying the very low-income limit (VLI) by 2.4, as adjusted for family size.

DHC will rely on the following over-income limits. These numbers will be updated within 60 days of HUD publishing new income limits each year and will be effective for all annual and interim reexaminations once these policies have been adopted.



| Family Size       | 1        | 2        | 3         | 4         | 5         | 6         | 7         | 8         |
|-------------------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Over-Income Limit | \$79,560 | \$90,960 | \$102,360 | \$113,640 | \$122,760 | \$131,880 | \$141,000 | \$150,120 |

For families larger than eight persons, the over-income limit will be calculated by multiplying the applicable very low-income limit by 2.4.

### **Decreases in Income [24 CFR 960.507(c)(4)]**

If, at any time during the consecutive 24-month period following the initial over-income determination, the PHA determines that the family's income is below the over-income limit, the PHA's over-income policies no longer apply to the family. If the PHA later determines that the family's income exceeds the over-income limit at a subsequent annual or interim reexamination, the family is entitled to a new 24 consecutive month period and new notices under this section.

If, at any time during the 24-month period following the initial over-income determination, an over-income family experiences a decrease in income, the family may request an interim redetermination of rent in accordance with DHC policy in Chapter 9.

If, as a result, the previously over-income family is now below the over-income limit, the family is no longer subject to over-income provisions as of the effective date of the recertification. DHC will notify the family in writing within 10 business days of the determination that over-income policies no longer apply to them.

### **Initial Notice of Over-Income Status [24 CFR 960.507(c)(1); Notice PIH 2023-03]**

If the PHA determines the family has exceeded the over-income limit during an annual or interim reexamination, the PHA must provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-1 and 13-2 provide sample initial notices based on HUD's model notices.

At annual or interim reexamination, if a family's income exceeds the applicable over-income limit, within 10 business days of the determination, DHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to DHC's over-income policies. The notice will state that the family may request a hearing if the family disputes the DHC's determination in accordance with DHC policies in Chapter 14. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

### **Second Notice of Over-Income Status [24 CFR 960.507(c)(2); Notice PIH 2023-03; Notice PIH 2023-27]**

The PHA must conduct an income examination 12 months after the initial over-income determination, even if the family is paying flat rent, unless the PHA determined the family's income fell below the over-income limit since the initial over-income determination. This includes when the PHA makes an initial determination that a family is over-income during an interim reexamination. In this case the PHA must conduct a second interim reexamination 12 months after the over-income determination, unless the family's income falls below the over-income limit during the 24-month period. See Chapter 9 for PHA policies on interims for over-income families.

If the PHA determines the family continues to exceed the over-income limit for 12 consecutive months, the PHA must provide written notification of this 12-month over-income determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 12 consecutive months and continuing to do so for a total of 24 consecutive months will result in the PHA following its continued occupancy policy for over-income families. Additionally, if applicable under PHA policy, the notice must include an estimate (based on current data) of the alternative non-public housing rent for the family's unit. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-3 and 13-4 provide sample 12-month notices based on HUD's model notices.

If a family's income continues to exceed the applicable over-income limit after 12 consecutive months, within 10 business days of the determination, DHC will notify the family in writing of the determination. The notice will state that if the family continues to be over-income for 24 consecutive months, the family will be subject to DHC's over-income policies. The notice will provide an estimate of the alternative non-public housing rent applicable to the family at the close of the 24 consecutive month period. The notice will also state that the family may request a hearing if the family disputes the DHC's determination in accordance with PHA policies in Chapter 14. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments.

### **Final Notice of Over-Income Status [24 CFR 960.507(c)(3) and 960.509; Notice PIH 2023-03; Notice PIH 2023-27]**

Unless the PHA determined the family's income fell below the over-income limit since the second over-income determination, the PHA must conduct an income examination 24 months after the initial over income determination, even if the family is paying flat rent. When a PHA makes an initial determination that a family is over-income during an interim reexamination, the PHA must conduct an interim reexamination 12 months after the over-income determination, and then again 12 months after the second over-income determination, unless the family's income falls below the over-income limit during the 24-month period.

If the family continues to be over-income based on this determination, the PHA must

provide written notification of this determination no later than 30 days after the income examination. The notice must state that the family has exceeded the over-income limit for 24 consecutive months and that the PHA will follow its continued occupancy policies for over-income families. The PHA must afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit. Exhibits 13-5 and 13-6 provide sample 24-month notices based on HUD's model notices.

If a family's income exceeds the applicable over-income limit for 24 consecutive months, DHC will notify the family in writing of the determination within 10 business days of the date of the determination. DHC will ensure that all notices and communications are provided in a manner that is effective for persons with hearing, visual, and other impairments. The notice will state that the family will be charged the alternative non-public housing rent in accordance with DHC continued occupancy policies and HUD regulations and provide the family's new rent amount.

The notice will also include a new non-public housing lease and inform the family that the lease must be executed by the family and DHC no later than 60 days from the date of the notice or at the next lease renewal, whichever is sooner. The family will continue to be a public housing program participant until the family executes the new non-public housing lease. The notice will also state that failure to execute the lease within this time period stated in the notice will result in termination of tenancy no more than six months after the date of the notice. DHC will permit an over-income family to execute a lease beyond this time period, but before termination of tenancy, if the over-income family pays DHC the total difference between the alternative non-public housing rent and their public housing rent dating back to the point in time that the over-income family was required to execute the new lease.

Once the family signs the new non-public housing lease, the family will no longer be a public housing participant family. The family will no longer be subject to income examinations, are precluded from participating in the resident council, and cannot participate in any programs that are only for public housing or low-income families. DHC will not provide such families with hearing or grievance rights.

The non-public housing over-income (NPHOI) lease will contain all required provisions listed at 24 CFR 960.509. The initial term of the lease will be for one year. Upon expiration of the initial lease term, the lease will not renew automatically, and subsequent leases will state renewal terms. At any time, DHC may terminate tenancy in accordance with 24 CFR 960.509(b)(11) and in accordance with state and local law.

Upon execution of the lease, the tenant will be required pay the amount of monthly tenant rent (known as the alternative non-public housing rent) determined by DHC in accordance with HUD regulations. DHC will comply with state and local law in giving the tenant written notice stating any changes in the amount of tenant rent. Charges assessed under the lease will be due in accordance with state and local law.

If an NPHOI family subsequently experiences a decrease in income after signing the NPHOI lease, the family may only be readmitted to the public housing program if they once again become an eligible low-income family and reapply to the public housing program.

## **PART III: TERMINATION BY DHC – OTHER AUTHORIZED REASONS**

### **13-III.A. OVERVIEW**

Besides requiring DHC to terminate the lease under the circumstances described in Part II, HUD requires DHC to establish provisions in the lease for termination pertaining to certain criminal activity, alcohol abuse, and certain household obligations stated in the regulations. While these provisions for lease termination must be in the lease agreement, HUD does not require DHC to terminate for such violations in all cases. DHC has the discretion to consider circumstances surrounding the violation or, in applicable situations, whether the offending household member has entered or completed rehabilitation, and DHC may, as an alternative to termination, require the exclusion of the culpable household member. DHC must make policy decisions concerning these options.

In addition, HUD authorizes DHC to terminate the lease for other grounds, but for only those grounds that constitute serious or repeated violations of material terms of the lease or that are for other good cause. DHC must develop policies pertaining to what constitutes serious or repeated lease violations, and other good cause, based upon the content of DHC's lease. In the development of the terms of the lease, DHC must consider the limitations imposed by state landlord-tenant law, as well as HUD regulations and federal statutes.

DHC, with some restrictions, also has the option to terminate the tenancies of families who are over income. DHC may consider alternatives to termination and must establish policies describing the criteria DHC will use when deciding what action to take, the types of evidence that will be acceptable, and the steps DHC must take when terminating a family's lease.

### **13-III.B. MANDATORY LEASE PROVISIONS**

This section addresses provisions for lease termination that must be included in the lease agreement according to HUD regulations. Although the provisions are required,

HUD does not require DHC to terminate for such violations in all cases, therefore DHC policies are needed.

## **Definitions**

The following definitions will be used for this and other parts of this chapter:

Affiliated individual is defined in section 16-VII.B.

Covered person means a resident, any member of the resident's household, a guest, or another person under the resident's control.

Dating violence is defined in section 16-VII.B.

Domestic violence is defined in section 16-VII.B.

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act.

Drug-related criminal activity means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with the intent to manufacture, sell, distribute, or use the drug.

Guest means a person temporarily staying in the unit with the consent of a resident or other member of the household who has express or implied authority to so consent on behalf of the resident.

Household means the family and DHC-approved live-in aide. The term household also includes foster children and/or foster adults that have been approved to reside in the unit. Immediate family member is defined in section 16-VII.B. Other person under the resident's control means that the person, although not staying as a guest in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the resident or other member of the household who has express or implied authority to so consent on behalf of the resident. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the resident's control.

Premises mean the building or complex or development in which the dwelling unit is

located, including common areas and grounds.

Stalking is defined in section 16-VII.B.

Sexual assault is defined in section 16-VII.B.

Stalking is defined in section 16-VII.B.

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.

### **Drug Crime On or Off the Premises**

DHC will terminate the lease for drug-related criminal activity engaged in on or off the premises by any resident, member of the resident's household or guest, and any such activity engaged in on the premises by any other person under the resident's control.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the drug-related criminal activity. A conviction for a drug-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a covered person engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by case basis, choose not to terminate the lease.

### **Illegal Use of a Drug**

The lease must provide that DHC may evict a family when DHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

DHC will terminate the lease when DHC determines that a household member is illegally using a drug or that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous six months.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs. A conviction for a drug-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a member of the household engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

### **Threat to Other Residents**

DHC will terminate the lease when a covered person engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, or by persons residing in the immediate vicinity of the premises.

Immediate vicinity means within a three-block radius of the premises.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of covered persons related to the criminal activity. A conviction for criminal activity is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a covered person engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose

not to terminate the lease.

### **Alcohol Abuse**

DHC will terminate the lease if DHC determines that a household member has engaged in abuse or a pattern of abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or DHC staff.

A pattern of such alcohol abuse means more than one incident of any such abuse of alcohol during the previous six months.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the abuse of alcohol. A conviction for an alcohol-related crime is not required before DHC can evict.

A record of arrest(s) will not be used as the sole basis for the termination or proof that a household member engaged in disqualifying criminal activity.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

### **Furnishing False or Misleading Information Concerning Illegal Drug Use or Alcohol Abuse or Rehabilitation**

DHC will terminate the lease if DHC determines that a household member has furnished false or misleading information concerning illegal drug use, alcohol abuse, or rehabilitation of illegal drug users or alcohol abusers.

DHC will consider all credible evidence, including but not limited to, any record of arrests or convictions of household members related to the use of illegal drugs or the abuse of alcohol, and any records or other documentation (or lack of records or documentation) supporting claims of rehabilitation of illegal drug users or alcohol abusers. A conviction for a crime is not required before DHC can evict.



In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, the DHC may, on a case-by-case basis, choose not to terminate the lease.

### **Other Serious or Repeated Violations of Material Terms of the Lease – Mandatory Lease Provisions**

HUD regulations require certain tenant obligations to be incorporated into the lease. Violations of such regulatory obligations are considered to be serious or repeated violations of the lease and grounds for termination. 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 [24 CFR 5.2005(c)(1)].

DHC will terminate the lease for the following violations of resident obligations under the lease:

Failure to make payments due under the lease, including non-payment of rent (see Chapter 8 for details pertaining to lease requirements for payments due);

Repeated late payment of rent or other charges. Four late payments within a 12 month period shall constitute repeated late payment. Failure to fulfill the following household obligations:

Not to assign the lease or to sublease the dwelling unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

Not to provide accommodations for boarders or lodgers.  
To use the dwelling unit solely as a private dwelling for the resident and the resident's household as identified in the lease, and not to use or permit its use for any other purpose.

To abide by necessary and reasonable policies and regulations promulgated by DHC for the benefit and well-being of the housing development and the residents, which shall be

posted in the development office and incorporated by reference in the lease.

To comply with all obligations imposed upon residents by applicable provisions of building and housing codes materially affecting health and safety.

To keep the dwelling unit and such other areas as may be assigned to the resident for the resident's exclusive use in a clean and safe condition.

To dispose of all ashes, garbage, rubbish, and other waste from the dwelling unit in a sanitary and safe manner.

To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appurtenances including elevators.

To refrain from, and to cause the household members and guests to refrain from destroying, defacing, damaging, or removing any part of the dwelling unit or development including buildings, facilities, common areas and grounds areas.

To pay reasonable charges, other than for normal wear and tear, for the repair of damages to the dwelling unit, or to the development, including damages to development buildings, facilities or common areas, caused by the resident, a member of the household or a guest.

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 will be conducive to maintaining the development in a decent, safe and sanitary condition.

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors as described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

### **13-III.C. OTHER AUTHORIZED REASONS FOR TERMINATION**

HUD authorizes DHC to terminate the lease for reasons other than those described in the previous sections. These reasons are referred to as "other good cause."

#### **Other Good Cause**

HUD regulations state that DHC may terminate tenancy for other good cause. The regulations provide a few examples of other good cause, but do not limit DHC to only those examples. The Violence Against Women Act explicitly prohibits DHC from considering incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as “other good cause” for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such violence.

DHC shall terminate the lease if any member of the household, during their current public housing tenancy, becomes subject to a lifetime registration requirement under a state sex offender registration program.

DHC may terminate the lease for the following reasons:

**Fugitive Felon or Parole Violator:** If a resident 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 or state law.

Discovery after admission of facts that made the resident ineligible for admission.

Discovery of materially false statements or fraud by the resident in connection with an application for assistance or with a reexamination of income.

Failure to furnish such information and certifications regarding family composition and income as may be necessary for DHC to make determinations with respect to rent, eligibility, and the appropriateness of dwelling size.

Failure to transfer to an appropriate size dwelling unit based on family composition, upon appropriate notice by DHC that such a dwelling unit is available.

Failure to permit access to the unit by DHC after proper advance notification for the purpose of performing routine inspections and maintenance, for making improvements or repairs, or to show the dwelling unit for re-leasing, or without advance notice if there is reasonable cause to believe that an emergency exists.

Failure to promptly inform DHC of the birth, adoption or court-awarded custody of a child. In such a case, promptly means within 10 business days of the event.

Failure to abide by the provisions of DHC's pet policy.

Failure to abide by the provisions of DHC's smoke-free policy.

Failure to abide by the provisions of DHC's weapons policy.

If the family has breached the terms of a Repayment Agreement entered into with DHC.

If a family member has violated federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

If a household member has engaged in or threatened violent or abusive behavior toward DHC personnel.

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

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

In making its decision to terminate the lease, DHC will consider alternatives as described in Section 13-III.D and other factors described in Sections 13-III.E and 13-III.F. Upon consideration of such alternatives and factors, DHC may, on a case-by-case basis, choose not to terminate the lease.

### **Family Absence from Unit**

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. The family must cooperate with DHC for this purpose.

The family must promptly notify DHC when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 14

calendar days. In such a case promptly means within 3 business days before the start of the extended absence.

If a family is absent from the public housing unit for more than 60 consecutive days, DHC will terminate the lease for other good cause. If within the 60 day period the unit is vandalized, the family will be charged for the repair of the unit and a Repayment Agreement may be authorized by the Executive Director.

Abandonment: If the family appears to have vacated the unit without giving proper notice, DHC will follow state landlord-tenant law pertaining to abandonment before taking possession of the unit. If necessary, DHC will secure the unit immediately to prevent vandalism and other criminal activity.

### **13-III.D. ALTERNATIVES TO TERMINATION OF TENANCY**

#### **Exclusion of Culpable Household Member**

As an alternative to termination of the lease for criminal activity or alcohol abuse, DHC may consider exclusion of the culpable household member. Such an alternative can be used for any other reason where such a solution appears viable in accordance with DHC policy.

Additionally, under the Violence Against Women Act, DHC may bifurcate a lease in order to terminate the tenancy of an individual who is a resident or lawful occupant of a unit and engages in criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

DHC will consider requiring the resident 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. As a condition of the family's continued occupancy, the head of household must certify that the culpable household member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The head of household must present evidence of the former household member's current address upon DHC request. In most cases DHC will require

original documents to be submitted as proof the family member has left the household. Additionally, DHC may require third-party verification.

### **Repayment of Family Debts**

If a family owes amounts to DHC, as a condition of continued occupancy, DHC will require the family to repay the full amount or to enter into a Repayment Agreement, within 30 days of receiving notice from DHC of the amount owed. See Chapter 16 for policies on Repayment Agreements.

### **13-III.E. CRITERIA FOR DECIDING TO TERMINATE TENANCY**

If DHC has grounds to terminate a tenancy, it is not required to do so, except as explained in Part II of this chapter, and may consider all of the circumstances relevant to a particular case before making a decision.

#### **Evidence**

DHC will consider all credible evidence in making termination decisions.

#### **Consideration of Circumstances**

DHC will consider the following facts and circumstances before deciding whether to terminate the lease:

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

The extent of participation or culpability of the leaseholder, or other household members, in the offending action, including whether the culpable member is a minor, a person with disabilities, or, as discussed further in section 13-III.F, a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

The effects that the eviction will have on other family members who were not involved in the action or failure to act.

The effect on the community of the termination, or of DHC's failure to terminate the tenancy.

The effect of DHC's decision on the integrity of the public housing program.

The demand for housing by eligible families who will adhere to lease responsibilities.

The extent to which the leaseholder has shown personal responsibility and whether they have taken all reasonable steps to prevent or mitigate the offending action.

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

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

1. Any statements made by witnesses or the alleged perpetrator not included in the police report
2. Whether criminal charges were filed
3. Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
4. Any other evidence relevant to determining whether or not the alleged perpetrator engaged in disqualifying activity

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

In the case of program abuse, the dollar amount of the under-paid rent and whether or not a false certification was signed by the family.

### **Consideration of Rehabilitation**

In determining whether to terminate the lease for illegal drug use or a pattern of illegal drug use, or for abuse or a pattern of abuse of alcohol, by a household member who is no longer engaging in such use or abuse, DHC will consider whether such household member is

participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

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

### **Reasonable Accommodation**

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of lease, 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 lease termination. See Chapter 2 for a discussion of reasonable accommodation.

### **Non-discrimination Limitation**

DHC's eviction actions must be consistent with fair housing and equal opportunity requirements.

## **13-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

This section addresses the protections against termination of tenancy that the Violence Against Women Act (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements and DHC policies pertaining to notification, documentation, emergency transfers and confidentiality see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

### **VAWA Protections against Termination**

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to



public housing to a resident on the basis or as a direct result of criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking that is engaged in by a member of the household of the resident or any guest or other person under the control of the resident, if the resident or an affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, stalking, or human trafficking.

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as serious or repeated

violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim or threatened victim of such violence.

### **Limits on VAWA Protections**

While VAWA prohibits DHC from using domestic violence, dating violence, sexual assault, stalking, or human trafficking as the cause for a termination or eviction action against a public housing resident who is the victim of the abuse, the protections it provides are not absolute. Specifically:

VAWA does not limit DHC's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, stalking, or human trafficking provided that DHC does not subject the victim to a more demanding standard than the standard to which it holds other residents. VAWA does not limit DHC's authority to terminate the tenancy of any public housing resident if DHC can demonstrate an actual and imminent threat to other residents or those employed at or providing service to the property if that resident's tenancy is not terminated.

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. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include, but are not limited to:

1. The duration of the risk.
2. The nature and severity of the potential harm.
3. The likelihood that the potential harm will occur.
4. The length of time before the potential harm would occur.

In order to demonstrate an actual and imminent threat, DHC must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, DHC may terminate the victim's assistance 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."

In determining whether a public housing tenant or an affiliated individual who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other residents or those employed at or providing service to a property, the DHC will consider the following, and any other relevant, factors:

1. Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking
2. Whether the threat is a physical danger beyond a speculative threat
3. Whether the threat is likely to happen within an immediate time frame
4. 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, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the resident wishes to contest DHC's determination that he or she is an actual and imminent threat to other residents or employees, the resident may do so as part of the grievance hearing or in a court proceeding.

## **Documentation of Abuse**

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, DHC will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

DHC 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 DHC will document the waiver in the individual's file.

### **Terminating or Evicting a Perpetrator of Domestic Violence**

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives DHC the explicit authority to bifurcate a lease, or remove a household member from a lease, “in order to evict, remove, or terminate assistance to any individual who is a resident or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, stalking, or human trafficking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a resident or lawful occupant of the housing” [24 CFR 5.2009(a)]. Moreover, HUD regulations impose on the DHC the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the DHC's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the DHC chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the DHC must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 Federal Register notice on the applicability of VAWA to HUD programs]. DHC must not initiate eviction procedures until 30 days after the lease bifurcation.

DHC will bifurcate a family's lease and terminate the tenancy of a family member if DHC determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, non-culpable family members.

In making its decision, DHC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to DHC by the victim in accordance with this section and section 16-VII.D. DHC will also consider the factors in section 13.III.E. Upon such consideration, DHC may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If DHC does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only resident eligible to receive assistance, DHC must provide any remaining resident a chance to establish eligibility for the unit. If the remaining resident cannot do so, DHC must provide the resident reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2022.

## **PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING**

### **13-IV.A. OVERVIEW**

This part discusses the specific requirements that precede and follow termination for certain criminal activities. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

### **13-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS**

DHC may conduct criminal records checks during the annual reexamination process or when it has come to the attention of the DHC, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent

activity against another person, or has interfered with the right to peaceful enjoyment of the premises of other residents. Such checks will also include sex offender registration information. In order to obtain such information, all adult household members must sign consent forms for release of criminal conviction and sex offender registration records on an annual basis.

DHC may not pass along to the resident the costs of a criminal records check.

### **13-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY**

In all cases where criminal record or sex offender registration information would result in lease enforcement or eviction, DHC will notify the household in writing of the proposed adverse action and will provide the subject of the record and the resident a copy of such information upon request and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

The family will be given 10 business days from the date of DHC notice, to dispute the accuracy and relevance of the information. If the family does not contact DHC to dispute the information within that 10-business day period, DHC will proceed with the termination action.

Should the resident not exercise his/her right to dispute before any adverse action, the resident still has the right to dispute in the grievance hearing or court.

### **13-IV.D. LEASE TERMINATION NOTICE**

#### **Form, Delivery, and Content of the Notice**

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice, and the right to examine DHC documents directly relevant to the termination or eviction. When DHC is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of his/her right to request a hearing in accordance with DHC's grievance procedure. In these cases, the tenancy shall not terminate until the time for the resident to request a grievance hearing has expired and

the grievance procedure has been completed.

When DHC is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug related criminal activity, the notice of lease termination must state that the resident is not entitled to a grievance hearing on the termination and must also state whether the eviction is for criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of DHC, or for drug-related criminal activity on or off the premises.

DHC will attempt to deliver notices of lease termination directly to the resident or an adult member of the household. If such attempt fails, the notice will be sent by firstclass mail.

All notices of lease termination will be accompanied by a copy of the forms HUD-5382 and HUD-5380. Any resident who claims that the cause for termination involves domestic violence, dating violence, sexual assault or stalking of which the resident or an affiliated individual of the resident is the victim will be given the opportunity to provide documentation in accordance with the policies in sections 13-III.F and 16-VII.D.

### **Timing of the Notice**

DHC must give written notice of lease termination of:

1. 14 calendar days in the case of failure to pay rent.
2. A reasonable period of time considering the seriousness of the situation but not to exceed 30 calendar days:
  - a. If the health or safety of other residents, DHC employees, or persons residing in the immediate vicinity of the premises is threatened.
  - b. If any member of the household has engaged in any drug-related criminal activity or violent criminal activity.
  - c. If any member of the household has been convicted of a felony
3. 30 calendar days in any other case, except that if a state or local law allows a

shorter notice period, such shorter period shall apply.

### **Notice of Non-renewal Due to Community Service Non-compliance**

When DHC finds that a family is not in compliance with the community service requirement, the head of household and any other non-compliant resident must be notified in writing of this determination. Notices of non-compliance will be issued in accordance with the requirements and policies in Section 11-I.E.

If after receiving a notice of initial non-compliance the family does not request a grievance hearing or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial non-compliance by signing an agreement and is still in non-compliance after being provided the 12-month opportunity to cure, the family will be issued a notice of continued non-compliance. The notice of continued non-compliance will be sent in accordance with the policies in Section 11-I.E. and will also serve as the notice of termination of tenancy.

### **Notice of Termination Based on Citizenship Status**

In cases where termination of tenancy is based on citizenship status, HUD requires the notice of termination to contain additional information. In addition to advising the family of the reasons their assistance is being terminated, the notice must also advise the family of any of the following that apply: the family's eligibility for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, the family's 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 the family's right to request an informal hearing with DHC either upon completion of the USCIS appeal or in lieu of the USCIS appeal. See Chapter 14 for DHC's informal hearing procedures.

## **13-IV.E. EVICTION**

When a family does not vacate the unit after receipt of a termination notice, by the deadline

given in the notice, DHC will follow state landlord-tenant law in filing an eviction action with the local court that has jurisdiction in such cases.

If the eviction action is finalized in court and the family remains in occupancy beyond the deadline to vacate given by the court, DHC will seek the assistance of the court to remove the family from the premises as per state law.

DHC may not proceed with an eviction action if DHC has not made available the documents to be used in the case against the family and has not afforded the family the opportunity to examine and copy such documents.

#### **13-IV.F. NOTIFICATION TO POST OFFICE**

When DHC evicts an individual or family for criminal activity, including drug-related criminal activity, DHC must notify the local post office serving the dwelling unit that the individual or family is no longer residing in the unit.

#### **13-IV.G. RECORD KEEPING**

For more information concerning general record keeping see Chapter 16.

A written record of every termination and/or eviction will be maintained by DHC and will contain the following information:

Name of resident, number and identification of unit occupied;

Date of the notice of lease termination and any other notices required by state law;

Specific reason(s) for the notices, citing the lease section or provision that was violated, and other facts pertinent to the issuing of the notices described in detail; Date and method of notifying the resident; and Summaries of any conferences held with the resident including dates, names of conference participants, and conclusions. If the resident moved out owing a debt to DHC, or if there was another adverse reason which resulted in a move out, e.g., eviction, abandonment, criminal activity, etc., DHC shall report the amount owed and/or adverse reason for termination in HUD's EIV System via the Debts Owed to PHAs and Terminations Report. DHC will also use all available resources to collect the debt owed.



## **CHAPTER 14: GRIEVANCES AND APPEALS**

### **INTRODUCTION**

This chapter discusses grievances and appeals pertaining to DHC actions or failures to act that adversely affect public housing applicants or residents. The policies are discussed in the following three parts:

Part I: Informal Hearings for Public Housing Applicants. This part outlines the requirements and procedures for informal hearings for public housing applicants.

Part II: Informal Hearings with Regard to Non-citizens. This part discusses informal hearings regarding citizenship status and where they differ from the requirements for general applicant and resident grievances.

Part III: Grievance Procedures for Public Housing Residents. This part outlines the requirements and procedures for handling grievances for public housing residents.

### **PART I: INFORMAL HEARINGS FOR PUBLIC HOUSING APPLICANTS**

#### **14-I.A. OVERVIEW**

When DHC denies admission to an applicant, the applicant may appeal the decision. For applicants, the appeal takes the form of an informal hearing. This part discusses DHC policies necessary to respond to the appeals of applicants through the informal hearing process.

#### **14-I.B. INFORMAL HEARING PROCESS**

Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to the program. Applicants to public housing are not entitled to the same hearing process afforded residents.

Informal hearings provide the applicant a means to review the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available, and to claim

mitigating circumstances, if possible.

### **Use of Informal Hearing Process**

DHC will only offer informal hearings to applicants for the purpose of disputing denials of admission.

### **Notice of Denial**

DHC must give an applicant prompt notice of a decision denying eligibility for admission. The notice must contain a brief statement of the reasons for DHC's decision and must also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing and that an applicant with a disability may request a reasonable accommodation. The notice should also state that the applicant may request interpretation or translation assistance.

When denying eligibility for admission, DHC must provide the family a notice of VAWA rights (form HUD-5380) as well as the HUD VAWA self-certification form (form HUD5382) in accordance with the Violence Against Women Act, and as outlined in 16-VII.C. The notice and self-certification form must accompany the written notification of the denial of eligibility determination.

Before notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial. See Section 3III.G for details concerning this requirement.

### **Scheduling an Informal Hearing**

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 date of DHC's notification of denial of admission.

DHC will schedule and send written notice of the informal hearing date within 10 business days of the family's request.

### **Conducting an Informal Hearing**

The informal hearing will be conducted by a person appointed by the Executive Director or her designee who is a person other than the one who made or approved the decision under review, or a subordinate of that person. This person may be a person affiliated with DHC or may be a qualified outside person.

The applicant will be provided an opportunity to present written or oral objections to DHC's decision.

The applicant may bring to the meeting any documentation or evidence s/he wishes and the evidence along with the data compiled by DHC will be considered by the person conducting the informal hearing.

The person conducting the informal hearing will make a determination based upon the merits of the evidence presented by both sides. Within 10 business days of the date of the review, the person conducting the informal hearing will mail a written decision to the applicant and place a copy of the decision in the applicant's file. A copy of the written decision will also be provided to DHC.

The Grievance Procedures for public housing residents do not apply to DHC determinations that affect applicants.

### **Informal Hearing Decision**

In making a decision, the person conducting the informal hearing will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice. If not, this is not grounds to overturn the decision to deny admission. Rather, the person conducting the informal hearing shall inform DHC of the deficiency and DHC shall issue a corrected notice.

The validity of grounds for denial of admission: If the grounds for denial are not specified in the regulations or in DHC policy, then DHC's decision to deny admission should be overturned. See Chapter 3 for a detailed discussion of the grounds for applicant denial of admission.

The validity of the evidence: Whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the denial must be upheld.

If the facts prove the grounds for denial, and the denial is discretionary, the person conducting the informal hearing may not overrule DHC's exercise of discretion. The person conducting the informal hearing will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed, within 10 business days of the informal hearing, to the applicant and his or her representative, if any.

If the denial is overturned as a result of the informal hearing, processing for admission will resume.

If the family fails to appear for the informal hearing, the denial of admission will stand and the family will be so notified. DHC may offer an additional hearing if the applicant contacts DHC regarding a scheduling conflict before the hearing or as a reasonable accommodation to a person with a disability. The applicant may only receive one new hearing date.

### **Reasonable Accommodation for Persons with Disabilities**

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and DHC must consider such accommodations. DHC must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See Chapter 2 for more detail pertaining to reasonable accommodation requests.

## **PART II: INFORMAL HEARINGS WITH REGARD TO NON-CITIZENS**

### **14-II.A. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as

informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while DHC's 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's informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

### **Notice of Denial or Termination of Assistance**

As discussed in Chapters 3 and 13, the notice of denial or termination of assistance for non-citizens must advise the family of any of the following that apply:

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 resident, the criteria and procedures for obtaining relief under the provisions for preservation of families.

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.

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.

## **United States Citizenship and Immigration Services Appeal Process**

When DHC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, then DHC will notify the family of the results of the USCIS verification within 10 business days of receiving the results. 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 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 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 USCIS will notify the family, with a copy to DHC, of its decision. If the USCIS notifies DHC that the appeal is denied, DHC must notify the family of its right to request an informal hearing with DHC.

DHC will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision denying the family's appeal.

### **Informal Hearing Procedures for Applicants**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that DHC provide a hearing. The request for a hearing must be made either within 30 days of receipt of DHC notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

## **Informal Hearing Officer**

DHC must provide an informal hearing before an impartial individual, other than the 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. This individual shall be appointed by the Executive Director or designee.

## **Evidence**

The family must be provided the opportunity to examine and copy, at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of DHC pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be allowed to copy any documents related to the hearing at the same cost DHC charges for documents under the Michigan Freedom of Information Act. The family must request discovery of DHC documents no later than 12:00 p.m. on the business day before the hearing. The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by DHC, and to confront and cross-examine all witnesses on whose testimony or information DHC relies.

## **Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. DHC is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family

.

## **Recording of the Hearing**

DHC will record the hearing. However, DHC is not required to provide a transcript of the hearing but will make available a copy of the audio tape or file at the resident's expense.

## **Hearing Decision**

DHC must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 14 business days of the date of the informal hearing. The notice must state the basis for the decision.

## **Retention of Documents**

DHC must 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 DHC's informal hearing process:

1. The application for assistance
2. The form completed by the family for income reexamination
3. Photocopies of any original documents, including original USCIS documents
4. The signed verification consent form
5. The USCIS verification results
6. The request for a USCIS appeal
7. The final USCIS determination
8. The request for an informal hearing
9. The final informal hearing decision

## **Informal Hearing Procedures for Residents**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, a resident family may request that DHC provide a hearing. The request for a hearing must be made either within 30 days of receipt of DHC's notice of termination, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for resident families whose tenancy is being terminated based on immigration status is the same as for any grievance under the grievance procedures for resident families found in Part III below.



## **PART III: GRIEVANCE PROCEDURES FOR PUBLIC HOUSING RESIDENTS**

### **14-III.A. REQUIREMENTS**

DHC's grievance procedure will be incorporated by reference in the resident lease.

Residents and resident organizations will have 30 calendar days from the date they are notified by DHC of any proposed changes in DHC grievance procedure, to submit written comments to DHC. Comments submitted must be considered by DHC before DHC adopts any grievance procedure changes.

DHC must furnish a copy of the grievance procedure to each resident and to resident organizations.

### **14-III.B. DEFINITIONS**

**Grievance:** Any dispute a Resident may have with respect to DHC action or failure to act in accordance with the individual Resident's lease or DHC regulations that adversely affects the individual Resident's rights, duties, welfare or status.

**CFR:** The Code of Federal Regulations, which contains the Federal guidelines governing this Grievance.

**Complainant:** Any Resident (as defined below) whose grievance is presented to DHC (at the central office or the development office) in accordance with the requirements presented in this procedure.

**Due Process Determination:** A determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.

**Drug-related criminal activity:** The illegal manufacture, sale, use or possession with intent to manufacture, sell, distribute or use a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. sec. 802) as from time to time amended.

**Expedited Grievance:** a procedure established by DHC for any grievance or termination

that involves: Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of DHC's public housing premises by other residents or DHC employees; or Any drug-related criminal activity on or off the premises. DHC will allow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any health hazard

**Hearing Officer/Panel:** An impartial person or persons selected by DHC, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.

**Promptly:** Shall mean within the time period indicated in the notice from the Detroit Housing Commission of a proposed action that would provide the basis for a Grievance if the Resident has received a notice of a proposed action from DHC.

**Resident:** The adult person (or persons other than a Live-in aide): (1) who resides in the unit, and who executed the lease with DHC as lessee of the dwelling unit, or, if no such person now resides in the unit, who resides in the unit, and (2) who is the remaining head of the household of the Resident family residing in the dwelling unit.

**Resident Organization:** An organization of residents, which also may include a Resident Management Corporation.

#### **14-III.C. APPLICABILITY**

The grievance procedure is applicable to all individual resident issues between DHC and the resident.

It is not applicable to disputes between residents not involving DHC or to class grievances.

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. Since HUD has issued a due process determination for the State of Michigan, DHC excludes from the grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

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.

See Chapter 13 for related policies on the content of termination notices.

#### **14-III.D. INFORMAL SETTLEMENT OF GRIEVANCE**

Any grievance must be personally presented, either orally or in writing, within 10 business days of the event being grieved to the office of the development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

Within 10 business days of receipt of the request DHC will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

If a resident fails to attend the scheduled meeting without prior notice, DHC will reschedule the appointment only if the resident can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

DHC will prepare a summary of the informal settlement discussion within 10 business days. One copy of the summary will be given to the resident and one copy will be retained in the resident's file.

The summary must specify the names of the participants, date(s) of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and will specify the procedures by which a hearing under 14-III.E. may be obtained if the complainant is not satisfied.

#### **14-III.E. PROCEDURES TO OBTAIN A HEARING**

##### **Requests for Hearing and Failure to Request**

##### **Hearing Prerequisite**

All grievances must be presented in accordance with the informal settlement process prescribed above as a condition precedent to a grievance hearing. However, if the

complainant can show good cause for failure to proceed with the informal settlement process to the hearing officer, the hearing officer may waive this provision.

### **Request for Hearing**

The resident must submit a written request for a grievance hearing to DHC within 10 business days of the resident's receipt of the summary of the informal settlement discussion. If the last day of the period falls on a Saturday or Sunday, the last day will be the next business day.

The request must state: (i) The reason for the grievance; and (ii) The action or relief sought.

### **Failure to Timely Request a Hearing**

If the resident does not timely request a hearing, DHC's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the resident of the right to contest DHC's action in an appropriate judicial proceeding.

### **Escrow Deposits**

Before a hearing is scheduled in any grievance involving the amount of rent that DHC claims is due, the family must pay an escrow deposit to DHC. When a family is required to make an escrow deposit, the amount is the amount of rent DHC states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer.

Per HUD regulation 24 CFR 966.5 10 business days(e)(2), DHC must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income.

Unless DHC waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not

waive the family's right to contest DHC's disposition of the grievance in any appropriate judicial proceeding.

DHC will not waive the escrow requirement for grievances involving rent amounts except where required to do so by HUD regulation.

### **Scheduling of Hearings**

If the resident has complied with all requirements for requesting a hearing, within 10 business days of receiving the written request for a hearing, the hearing officer will schedule the hearing and send written notice of the hearing to the resident and DHC that specifies the time, place and the procedures governing the hearing.

The resident may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing before the hearing date. At its discretion, DHC may request documentation of the "good cause" before rescheduling the hearing.

### **Expedited Grievance Procedure**

DHC may establish an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or DHC employees; Any drug-related criminal activity on or near such premises.

In such expedited grievances, the informal settlement of grievances as discussed in 14III.D is not applicable.

DHC may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

DHC will allow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any health hazard.

The resident will have 2 business days after receipt of the Notice to Terminate Tenancy to file a written hearing request specifying the reason(s) the grievance and the action sought from DHC. The hearing officer will have 3 business days to schedule the hearing and 3 business days to render a decision. All other aspects of the expedited grievance process shall be the same as for other grievances.

#### **14-III.F. SELECTION OF HEARING OFFICER/PANEL**

The grievance hearing must be conducted by an impartial person or persons appointed by DHC, other than the person who made or approved the action under review, or a subordinate of such person.

DHC grievance hearings will be conducted by a single hearing officer or a hearing panel.

The Executive Director, or designee, shall nominate a slate of impartial persons to sit as hearing officers. Such persons may include DHC employees, professional mediators or arbitrators, or others. The initial slate of nominees should be at least 10 persons.

Nominees will be informed that they will be expected to disqualify themselves from hearing grievances that involve personal friends or grievances in which they have some personal or business interest.

#### **14-III.G. PROCEDURES GOVERNING THE HEARING**

##### **Rights of Complainant**

The complainant will be afforded a fair hearing which includes:

- The opportunity to examine before the grievance hearing any DHC documents, including records and regulations that are directly relevant to the hearing. The resident will be allowed to copy any documents related to the hearing at, at the resident's expense, at the same cost DHC charges for documents under the Michigan Freedom of Information Act. The family must request discovery of DHC documents no later than three (3) business days before the hearing. If DHC does not make any document(s) available for examination upon request of the resident,

DHC may not rely on the document at the grievance hearing.

1. The right to appear at the hearing and be represented by counsel, or other person chosen as the resident's representative and to have such person make statements on the resident's behalf. The counsel or other representative chosen by the resident will only be permitted to appear on behalf of the resident if the resident is physically present at the hearing unless the resident is not present as a result of a reasonable accommodation.
2. The right to a private hearing unless the resident requests a public hearing.
3. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by DHC, and to confront and cross-examine all witnesses upon whose testimony or information DHC relies.
4. A decision based solely and exclusively upon the facts presented at the hearing.

### **Rights of DHC**

Upon DHC's request, the resident must provide DHC the opportunity to review relevant documents. DHC may make copies of the documents at its expense. If the resident does not make documents available for examination upon DHC's request, the resident may not rely on such documents at the hearing. DHC must request production of documents from the resident no later than 3 business days before the hearing.

### **Decision without Hearing**

The hearing officer/panel may render a decision without proceeding with the hearing if the hearing officer/panel determines that the issue has been previously decided in another proceeding.

### **Failure to Appear**

If the resident or DHC fails to appear at a scheduled hearing, the hearing officer/panel may make a determination to postpone the hearing for not to exceed ten (10 business days)

business days or may make a determination that the party has waived his/her right to a hearing. Both the resident and DHC must be notified of the determination by the hearing officer/panel. Provided, however, that a determination that the resident has waived his/her right to a hearing will not constitute a waiver of any right the resident may have to contest DHC's disposition of the grievance in an appropriate judicial proceeding.

There may be times when a resident does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

If the resident does not appear at the scheduled time of the hearing, the hearing officer/panel will wait up to 30 minutes. If the resident appears within 30 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 30 minutes of the scheduled time, s/he will be considered to have failed to appear.

If the resident fails to appear and was unable to reschedule the hearing in advance, the resident must contact the hearing officer/panel within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer/panel will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

"Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

## **General Procedures**

At the hearing, the resident must first make a showing of an entitlement to the relief sought and thereafter DHC must sustain the burden of justifying its action or failure to act against which is the subject of the complaint.

The hearing must be conducted informally by the hearing officer/panel. DHC and the resident must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and 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/panel must be presented at the time of the hearing. There are four categories of evidence. a. Oral evidence: this is the testimony of live witnesses.

Documentary evidence: this is 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, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: this is evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer/panel, such as a model, a chart or other diagram.

Real evidence: is 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 hearing and that is offered to prove the truth of the matter.

Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer/panel's decision. If DHC fails to comply with the resident's discovery request to examine DHC documents before the grievance hearing, the hearing officer/panel will refuse to admit such evidence.

If the resident fails to comply with DHC's discovery request to examine resident documents before the grievance hearing, the hearing officer/panel will refuse to admit such evidence.

Other than the failure either party to comply with a discovery request, the hearing officer/panel has the authority to overrule any objections to evidence.

The hearing officer/panel must require DHC, the resident, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer/panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

DHC is not required to provide a transcript of the hearing but will make an audio recording of the hearing. Upon request, DHC will provide a copy of the recording to the grievant at

the grievant expense. DHC may provide a copy of the recording on a disk or electronically. Either party may have the proceedings transcribed by a certified court reporter at their own expense. If a certified court reporter is to be used, the party ordering the certified court reporter must let the other party know at least one (1) business day before the grievance hearing. Any interested party may purchase a copy of the transcript.

### **Accommodations of Persons with Disabilities**

DHC must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident is visually impaired, any notice to the resident which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of DHC's responsibilities pertaining to reasonable accommodation.

### **14-III.H. DECISION OF THE HEARING OFFICER/PANEL**

The hearing officer/panel must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the resident and DHC.

DHC must retain a copy of the decision in the resident's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by DHC and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel

In rendering a decision, the hearing officer/panel will consider the following matters:

DHC Notice to the Family: The hearing officer/panel will determine if the reasons for DHC's decision were factually stated in the notice.

Discovery: The hearing officer/panel will determine if the family was given the opportunity to examine any relevant documents in accordance with DHC policy.

**Evidence to Support DHC's Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the DHC's conclusion.

**Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer/panel will determine if the termination of tenancy is for one of the grounds specified in HUD regulations and/or DHC policies. If the grounds for termination are not specified in the regulations or in compliance with DHC policies, then the decision of DHC will be overturned.

The hearing officer/panel will issue a written decision to the family and DHC no later than 30 business days after the hearing. The decision will contain the following information:  
**Hearing information:**

1. Name of the complainant
2. Date, time and place of the hearing
3. Name of the hearing officer/panel
4. Name of the DHC representative(s) at the hearing
5. Name of family representative, if any, at the hearing
6. Names of witnesses, if any

**Background:** A brief, impartial statement of the reason(s) for the hearing and the date(s) on which the informal settlement discussion was held, who held it, and a summary of the results of the informal settlement discussion. Also, it is to include the date the complainant requested the grievance hearing.

**Summary of the Evidence:** The hearing officer/panel 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/panel 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 shows 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/panel 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: The hearing decision will include a statement of whether DHC's decision is upheld or overturned. If it is overturned, the hearing officer/panel will instruct DHC to change the decision in accordance with the hearing officer/panel's determination. In the case of termination of tenancy, the hearing officer/panel will instruct DHC to restore the family's status.

### **Procedures for Further Hearing**

The hearing officer/panel may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer/panel, the action of DHC will take effect and another hearing will not be granted.

### **Final Decision**

The decision of the hearing officer/panel is binding on DHC which must take the action, or refrain from taking the action cited in the decision unless DHC's Executive Director or designee, determines within a reasonable time, and notifies the resident that the decision is invalid because:

The hearing officer/panel exceeded its authority because the grievance does not concern DHC action or failure to act in accordance with or involving the resident's lease or DHC policies which adversely affect the resident's rights, duties, welfare, or status; or

The decision of the hearing officer/panel is contrary to Federal, state, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and DHC.

When DHC staff considers the decision of the hearing officer to be invalid due to the reasons stated above, they will immediately present the matter to the Executive Director or designee. The Executive Director or designee has 10 business days to consider the

decision. If the Executive Director or designee decides to reverse the hearing officer/panel's decision, DHC will notify the resident within 30 business days of this decision.

A decision by the hearing officer/panel or the Executive Director or designee in favor of DHC or which denies the relief requested by the resident, in whole or in part, will not constitute a waiver of any rights the resident may have to judicial review in court.

## **CHAPTER 15: PROGRAM INTEGRITY**

### **INTRODUCTION**

DHC is committed to ensuring that funds made available to DHC are spent in accordance with HUD requirements.

This chapter covers 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. For purposes of this chapter the term error refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead

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**

#### **15-I.A. PREVENTING ERRORS AND PROGRAM ABUSE**

DHC anticipates that the vast majority of families and DHC employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. To ensure that DHC's 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 minimized.

DHC will provide each applicant and resident with a copy of "Is Fraud Worth It?" (Form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

DHC will also provide each applicant and resident with a copy of HUD's "What You Should

Know about EIV,” a guide to HUD’s Enterprise Income Verification (EIV) system. In addition, DHC will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

DHC will require mandatory orientation sessions for all prospective residents either before or upon execution of the lease at which DHC will discuss program compliance and integrity issues. At the conclusion of all program orientation sessions, the head of household will be required to sign a program briefing certificate to confirm that all rules and pertinent regulations were explained to them.

DHC will routinely provide resident counseling as part of every reexamination interview in order to clarify any confusion pertaining to program rules and requirements.

DHC staff will be required to review and explain the contents of all HUD- and DHC-required forms before requesting family member signatures.

DHC may place a warning statement about the penalties for fraud on key DHC forms and form letters that request information from a family member.

## **15-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

### **Quality Control and Analysis of Data**

DHC will employ a variety of methods to detect errors and program abuse, including but, not limited to: Routinely use available sources of up-front income verification, from HUD’s EIV system, to compare with family-provided information.

At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.

### **Independent Audits and HUD Monitoring**

DHC will use the results reported in any independent auditor HUD monitoring report to identify potential program abuses as well as to assess the effectiveness of DHC’s error detection and abuse prevention efforts.

## **Individual Reporting of Possible Errors and Program Abuse**

DHC will encourage staff, residents, and the public to report possible program abuse.

### **15-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

#### **When DHC Will Investigate**

DHC will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for 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.

#### **Consent to Release of Information**

DHC may investigate possible instances of error or abuse using all available DHC and public records. If necessary, DHC will require applicant/resident families to give consent to the release of additional information.

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

For each investigation 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.



## **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 and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, and (4) the effects of a particular remedy on family members who were not involved in the offense.

## **Notice and Appeals**

DHC will inform the head of household in writing of its findings and remedies within 15 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 abuse, (3) the remedies to be employed, and (4) the family's right to appeal the results through an informal hearing or grievance hearing (see Chapter 14).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **15-II.A. UNDER- OR OVERPAYMENT**

An under- or overpayment includes an incorrect tenant rent payment by the family, or an incorrect utility reimbursement to a family.

#### **Corrections**

Whether the incorrect rental determination is an overpayment or underpayment, DHC must promptly correct the tenant rent and any utility reimbursement prospectively. Increases in the tenant rent will be implemented only after the family has received 30 days' notice.

Any decreases in tenant rent will become effective the first of the month following the discovery of the error.

## **Reimbursement**

Whether the family is required to reimburse DHC or DHC is required to reimburse the family depends upon which party is responsible for the incorrect payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **15-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

General administrative requirements for participating in the program are discussed throughout the ACOP. This section deals specifically with errors and program abuse by family members.

An incorrect rent 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.

#### **Family Reimbursement to DHC**

In the case of family-caused errors or program abuse, the family will be required to repay any amounts of rent underpaid. DHC may, but is not required to, offer the family a Repayment Agreement in accordance with Chapter 16. If the family fails to repay the amount owed, DHC will terminate the family's lease in accordance with the policies in Chapter 13.

#### **DHC Reimbursement to Family**

DHC will not reimburse the family for any overpayment of rent when the overpayment is clearly caused by the family's failure to report changes in household composition and income as required.

#### **Prohibited Actions**

An applicant or resident in the public housing program must not knowingly:

Make a false statement to DHC;

Provide incomplete or false information to DHC; or  
Commit fraud or make false statements in connection with an application for assistance or with reexamination of income.

Any of the following will be considered evidence of family program abuse: Offering bribes or illegal gratuities to DHC's Board of Commissioners, employees, contractors, or other DHC representatives;

Offering payments or other incentives to 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., misreporting of income or family composition);

Omitted facts that were obviously known by a family member (e.g., not reporting employment income); or Admission of program abuse by an adult family member.

DHC may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### **Penalties for Program Abuse**

In the case of program abuse caused by a family DHC may, at its discretion, impose any of the following remedies:

DHC may require the family to repay any amounts owed to the program (see 15-II.B., Family Reimbursement to DHC);

DHC may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 13 (for residents).

DHC may deny admission or terminate the family's lease following the policies set forth in Chapter 3 and Chapter 13, respectively.

DHC may refer the family for state or federal criminal prosecution as described in section 15-II.D.

## **15-II.C. DHC-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of DHC staff with respect to normal program administration are discussed throughout the ACOP. This section specifically addresses actions of a DHC staff member that are considered errors or program abuse related to the public housing program. Additional standards of conduct may be provided in other DHC policies.

DHC-caused incorrect rental determinations include (1) failing to correctly apply public housing rules regarding family composition, income, assets, and expenses, and (2) errors in calculation.

### **De Minimis Errors [24 CFR 5.609(c)(4); Notice PIH 2023-27]**

DHC will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

DHC will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error. DHC will reimburse a family, through a credit against future rent, for any family overpayment of rent, not to exceed \$250.00. If an has a credit balance as a result of overpayment of rent, that exceeds \$250.00, DHC will reimburse the head-of-household by check, for the entire amount of the credit balance, as long as the reimbursement has been reviewed by the Operations Analyst and Compliance Manager and approved by the Director of Real Estate Management. Checks are mailed to the head-of-household unless otherwise approved by DHC's Finance Department.

Director of Real Estate Management

#### **15-II.D. CRIMINAL PROSECUTION**

When DHC determines that program abuse by a family or DHC staff member has occurred and the amount of underpaid rent meets or exceeds the threshold for prosecution under local or state law, DHC may refer the matter to the appropriate entity for prosecution. When the amount of underpaid rent meets or exceeds the federal threshold, the case may also be referred to the HUD Office of Inspector General.

Other criminal violations related to the public housing program will be referred to the appropriate local, state, or federal entity.

#### **15-II.E. FRAUD AND PROGRAM ABUSE RECOVERIES**

If DHC enters into a Repayment Agreement with a family to collect rent owed, initiates litigation against the family to recover rent owed, or begins eviction proceedings against a family, DHC may retain 100 percent of program funds that DHC recovers. If DHC does none of the above, all amounts that constitute an underpayment of rent must be returned to HUD.

The family must be afforded the opportunity for a hearing through DHC grievance process.

## **CHAPTER 16: PROGRAM ADMINISTRATION**

### **INTRODUCTION**

This chapter discusses administrative policies and practices that are relevant to the activities covered in this ACOP. The policies are discussed in seven parts as described below:

Part I: Setting Utility Allowances. This part describes how utility allowances are established and revised. Also discussed are the requirements to establish surcharges for excess consumption of DHC-furnished utilities.

Part II: Establishing Flat Rents. This part describes the requirements and policies related to establishing and updating flat rent amounts.

Part III: Repayment of Family Debts. This part contains policies for recovery of monies that have been underpaid by families and describes the circumstances under which DHC will offer Repayment Agreements to families. Also discussed are the consequences for failure to make payments in accordance with a Repayment Agreement.

Part IV: Public Housing Assessment System (PHAS). This part describes the PHAS indicators, how DHC is scored under PHAS, and how those scores affect DHC.

Part V: Record Keeping. All aspects of the program involve certain types of recordkeeping. This part outlines the privacy rights of applicants and residents and record retention policies DHC will follow.

Part VI: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes DHC's reporting responsibilities related to children with environmental intervention blood lead levels that are living in public housing.

Part VII: Violence against Women Act (VAWA): Notification, Documentation, and Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families 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.

## **PART I: SETTING UTILITY ALLOWANCES**

### **16-I.A. OVERVIEW**

DHC must establish allowances for DHC-furnished utilities for all check metered utilities and for all utilities purchased directly by residents from a utility supplier.

DHC must maintain a record that documents the basis on which utility allowances and scheduled surcharges are established and revised, and the record must be made available for inspection by residents.

### **16-I.B. UTILITY ALLOWANCES**

DHC must establish separate allowances for each utility and for each category of dwelling units DHC determines to be reasonably comparable as to factors affecting utility usage.

Utilities include gas, electricity, fuel for heating, water, sewerage, and solid waste disposal for a dwelling unit. In addition, if DHC does not furnish a range and refrigerator, the family must be granted a utility allowance for the range and refrigerator they provide. Costs for telephone, cable/satellite TV, and internet services are not considered utilities.

#### **Air-Conditioning**

If a DHC installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or check meters, and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning but cannot be check metered, residents are to be surcharged in accordance with 24 CFR 965.506. If an air conditioning system does not provide for resident option, residents are not to be charged, and these systems should be avoided whenever possible.

## **Utility Allowance Revisions**

DHC will annually review the basis on which utility allowances have been established. DHC may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change, and is required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rate on which the allowance was based.

Adjustments to resident payments as a result of such changes will be retroactive to the first day of the month following the month in which the last rate change taken into account became effective.

### **16-I.C. NOTICE REQUIREMENTS**

DHC must give notice to all residents of proposed allowances and scheduled surcharges, and revisions thereof. The notice must be given in the manner provided in the lease and must:

Be provided at least 60 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

Describe the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances and schedule of surcharges.

Notify residents of the place where DHC's documentation on which allowances and surcharges are based is available for inspection.

Provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances, scheduled surcharges, or revisions.

### **16-I.D. REQUEST FOR RELIEF**

On request from a family that includes a disabled or elderly person, DHC may approve a



utility allowance that is higher than the applicable amount for the dwelling unit as DHC may deem appropriate.

Likewise, residents with disabilities may not be charged for the use of certain resident supplied appliances if there is a verified need for special equipment because of the disability.

See Chapter 2 for policies regarding the request and approval of reasonable accommodations.

## **PART II: ESTABLISHING FLAT RENTS**

### **16-II.A. OVERVIEW**

Flat rents are designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient.

Flat rents are also used to prorate assistance for a mixed family. A mixed family is one whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigrations status [24 CFR 5.504].

This part discusses how DHC establishes and updates flat rents. Policies related to the use of flat rents, family choice of rent, flat rent hardships, and proration of rent for a mixed family are discussed in Chapter 6.

### **16-II.B. FLAT RENTS**

#### **Establishing Flat Rents**

The 2015 Appropriations Act requires that flat rents must be set at no less than 80 percent of the applicable fair market rent (FMR). Alternatively, DHC may set flat rents at no less than 80 percent of the applicable small area FMR (SAFMR) for metropolitan areas, or 80 percent of the applicable unadjusted rents for non-metropolitan areas.

For areas where HUD has not determined a SAFMR or an unadjusted rent, DHC must set

flat rents at no less than 80 percent of the FMR or apply for an exception flat rent. The 2015 Appropriations Act permits DHC to request an exception flat rent that is lower than either 80 percent of the FMR or SAFMR/unadjusted rent if DHC can demonstrate that these FMRs do not reflect the market value of a particular property or unit.

In order to demonstrate the need for an exception flat rent, DHC is required to submit a market analysis methodology that demonstrates the value of the unit. DHC must use HUD's rent reasonableness methodology to determine flat rents. In determining flat rents, DHC must consider the following:

Location

Quality

Unit size

Unit type

Age of property

Amenities at the property and in immediate neighborhood

Housing services provided

Maintenance provided by the PHA

- Utilities provided by the PHA

DHC must receive written HUD approval before implementing exception flat rents. Before DHC use exception flat rents, it must annually conduct a new market analysis, and obtain HUD approval.

## **Review of Flat Rents**

On an annual basis DHC will update the flat rent amounts within 90 days after HUD publishes new FMRs/SAFMRs/unadjusted rent. Flat rents are determined on a per property basis except for scattered site houses which utilize a per bedroom schedule. DHC must offer changes to the flat rent to all new admissions and to existing families at

the next annual rent option.

If the FMR falls from year to year, DHC may, but is not required to, lower the flat rent to 80 percent of the current FMR/SAFMR/unadjusted rent.

If the FMR/SAFMR/unadjusted rent is lower than the previous year, DHC may reduce flat rents to 80 percent of the current FMR/SAFMR.

### **Posting of Flat Rents**

DHC will publicly post the schedule of flat rents in a conspicuous manner in the applicable DHC or development office.

### **Documentation of Flat Rents**

DHC must maintain records that document the method used to determine flat rents, and that show how flat rents were determined by DHC in accordance with that method.

## **PART III: FAMILY DEBTS TO DHC**

### **16-III.A. OVERVIEW**

This part describes DHC's policies for recovery of monies owed to DHC by families.

DHC will use any and all available collection tools to recover debts.

### **16-III.B. REPAYMENT POLICY**

#### **Family Debts to DHC**

Any amount owed to DHC by a family must be repaid. For former residents, if the family is unable to repay the debt or enter into a Repayment Agreement within 30 days of move-out, DHC will refer the debt to a collection agency. If the family refuses to repay the debt and does not enter into a Repayment Agreement, or breaches a Repayment Agreement, DHC will terminate the family's tenancy in accordance with the policies in Chapter 13. DHC may also pursue other methods of collection.

#### **Other Collection Methods**

When a family refuses to repay monies owed to DHC, DHC may utilize all available

collection alternatives including, but not limited to, the following:

1. Collection agencies
2. Small claims court
3. Civil lawsuit
4. State income tax set-off program
5. Guidelines for Repayment Agreements

All repayment agreements must be in writing, dated, signed by both the resident and DHC, include the total rent amount owed, and the total retroactive rent owed, if any, the amount of the lump sum payment made at time of execution, if applicable, and the monthly repayment amount.

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 \$2,000 or for no more than three (3) months in arrears, whichever comes first, and upon approval by a Senior-level Supervisor 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 no more than two (2) Repayment Agreements with DHC within the last eighteen (18) months. Repayment Agreements shall be for a period not to exceed eighteen (18) months and must require that the full amount due, is paid within the 18-month period. A Repayment Agreement for longer than an eighteen (18) month period or, a Repayment Agreement for an amount over \$2,000 and/or more than than three (3) months in arrears, will require approval from the Department Head or designee. The total the tenant pays, for a combination of the TTP and the Repayment Agreement, should not exceed 40% of the tenant's monthly adjusted income.

A payment is late if it is not paid by the 15th calendar day of the month. If the 15th is on a weekend or holiday, payment will be due by 4:00 p.m. of the next business day. If the family's payment is late, the Repayment Agreement will be cancelled effective the 1 6th

of the month. DHC will notify the family and its Finance Department in writing of the cancellation of the Repayment Agreement, and DHC requires the family to pay the balance in full by the end of the month that the Repayment Agreement was cancelled. Failure to pay as required will be cause for termination of the lease.

Late fees will not continue to be charged during the term of the Repayment Agreement as long as the family's payment is not late. Late fees will be charged if the family is late on their payment.

If the family requests a transfer to another unit and has a Repayment Agreement in place and the Repayment Agreement is not in arrears, the family will be permitted to move subject to the satisfaction of all other requirements of this ACOP relative to transfers.

Repayment Agreements will be executed between DHC and the head of household and spouse or co-head of household. If the head of household or co-head moves and there is a remaining adult family member in the unit who, in DHC's determination, can enter into a lease with DHC, DHC may terminate the Repayment Agreement with the former head of household and offer a new Repayment Agreement to the new head of household. Regardless of whether or not a new Repayment Agreement is offered, the new head of household will be responsible for paying the remaining outstanding debt owed to DHC by the former head of household.

### **Multiple Repayment Agreements Not Allowed**

A family may not have more than one (1) Repayment Agreement with DHC at a time.

### **Down Payment Requirement**

DHC offers three (3) terms, as options for Repayment Agreements:

- (a) An 18-month agreement which requires a payment of 40% of the balance, due at the time the resident signs the Repayment Agreement
- (b) A 12-month agreement which requires a payment of 30% of the balance, due at the time the resident signs the Repayment Agreement.
- (c) or a 6-month agreement which requires a payment of 20% of the balance due at the time the resident signs the Repayment Agreement.

The balance, due under both Repayment Agreement plans, shall be divided into equal

monthly payments, which must be paid in addition to the current tenant rent. However, the family may elect to pay a monthly payment which exceeds the monthly installment stated in the executed Repayment Agreement. Exceptions to this installment plan must be approved by the Executive Director or designee.

If the family can provide evidence satisfactory to DHC that a minimum down payment would impose an undue hardship, DHC may, in its sole discretion, require a lesser percentage or waive the requirement.

There is no penalty for early pay off of the agreement, and early payoff is strongly encouraged. However, once the Repayment Agreement has been paid in full, the family cannot enter into another Repayment Agreement within two years of the date the previous Repayment Agreement was paid in full.

### **Length and Number of Repayment Agreements**

The maximum length of time DHC will enter into a Repayment Agreement with a family is eighteen (18) 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, from the current request.

A second Repayment Agreement must be for a good cause reason as defined in this ACOP. Examples of good cause reasons for entering into a second Repayment Agreement include, but are not limited to, the following: death of immediate family member, i.e., mother, father, son, daughter, husband, wife, household member, grandmother, grandfather, sibling, loss of earned income, and other circumstances as approved, in writing, by the Executive Director or designee.

### **Payment Thresholds**

The down payment as well as the monthly payment cannot exceed 40% of a family's monthly income. If a family is paying less than 40 percent of its monthly adjusted income

(MAI) in rent, the minimum monthly payment amount will be the greater of the following two 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, either DHC or the family may request that the monthly payment amount be adjusted accordingly. Repayment Agreements that exceed 40% of person's income will be extended in one- month increments until the person's payment does not exceed 40% of person's income.

### **Repayment Agreements Involving Improper Payments**

HUD PIH Notice 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

1. A reference to the items in the public housing lease that state the family's obligation to provide true and complete information at every reexamination and the grounds on which
2. DHC may terminate assistance because of a family's action or failure to act
3. A statement clarifying that each month the family not only must pay to DHC the monthly payment amount specified in the agreement but must also pay DHC family's monthly tenant rent.
4. A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases
5. A statement that late or missed payments constitute default of the repayment agreement and may result in termination of tenancy

Residents 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 resident 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 resident 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.

### **Repayment Agreements for Former Residents**

DHC is required to report all debt to HUD via the EIV system. The original amount owed to DHC at the time of move out will be posted and recorded as debt owed to DHC in the EIV system.

Former residents that are eligible for immediate housing with another PHA or owner in connection with any assisted housing program may be allowed to enter into a repayment agreement in an effort to obtain immediate housing and to satisfy the debt. In these cases, DHC offer the following Repayment Agreement:

Up to a 12-month agreement which requires a payment of 30% of the balance due at the time the former resident signs the Repayment Agreement;

The balance due under both Repayment Agreement plans shall be divided into equal monthly installments. The family may elect to pay a monthly payment which exceeds the monthly installment stated in the executed Repayment Agreement.

The EIV system will be updated to reflect a status of "Repayment Agreement" after the initial payment has been made and the required forms are signed. Once the balance is paid in full, the EIV system will be revised to reflect a status of "Debt Owed Paid in Full".

If the former resident fails to maintain the monthly payments, the former resident will be notified that the balance is due in full and payment would be expected within 30 days.



Consequently, the EIV system will be revised to reflect a status of “Default on Repayment Agreement”.

If a resident does not enter into a repayment agreement to satisfy the debt, the EIV debts owed record will reflect the balance owed to the DHC with no favorable updates. As such, former residents that owe an unsettled debt may be prevented from receiving assistance from other HUD assisted programs.

In all cases of former resident debt, the original amount owed to DHC at the time of move out will be posted on the EIV system.

## **PART IV: PUBLIC HOUSING ASSESSMENT SYSTEM (PHAS)**

### **16-IV.A. OVERVIEW**

The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among PHAs, public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations.

### **16-IV.B. PHAS SCORE**

HUD’s Real Estate Assessment Center (REAC) issues overall PHAS scores. DHC will post a notice of its final PHAS score and designation in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and designation.

## **PART V: RECORD KEEPING**

### **16-V.A. OVERVIEW**

DHC must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, DHC must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights, and that comply with VAWA 2022 confidentiality requirements.

## **16-V.B. RECORD RETENTION**

DHC must keep the last three (3) years of the Form HUD-50058 and supporting documentation during the term of each assisted lease period, and for a period of at least three (3) years from the end of participation (EOP) date.

During the term of each public housing tenancy, and for at least three (3) years thereafter, DHC will keep all documents related to a family's eligibility, tenancy, and termination.

In addition, DHC will keep the following records for at least three (3) years:

An application from each ineligible family and notice that the applicant is not eligible.

Lead-based paint records.

Documentation supporting the establishment of flat rents.

Documentation supporting the establishment of utility allowances and surcharges.

Documentation related to DHC.

Accounts and other records supporting DHC budget and financial statements for the program.

Confidential records of all emergency transfers related to VAWA requested under DHC's Emergency Transfer Plan and the outcomes of such requests.

Other records as determined by DHC or as required by HUD.

Complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule

If a hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 14-II.A.

## **16-V.C. RECORDS MANAGEMENT**

DHC must maintain applicant and resident files and information in accordance with the regulatory requirements described below.

All applicant and resident information will be kept in a secure location and access will be limited to authorized DHC staff.

DHC staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in progressive disciplinary action.

### **Privacy Act Requirements**

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 residents 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 residents, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information/Privacy Act Notice.

This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions DHC may release the information collected.

### **Upfront Income Verification (UIV) Records**

Before utilizing HUD's Enterprise Income Verification (EIV) system, DHC will adopt and implement EIV security procedures.

### **UIV/EIV Security Policy**

DHC will utilize Upfront Income Verification (UIV) as the preferred method of verifying income. UIV refers to DHC's use of verification tools available from independent sources that maintain computerized information about earning and benefits, including HUD's EIV

system.

All UIV and related documents will only be used for the purposes for which they were intended. The data is subject to the provisions of the Federal Privacy Act (5 U.S.C. § 552, as amended from time to time.

### **Executive Director's Responsibilities**

The Executive Director shall appoint UIV/EIV Security Officer(s).

The Executive Director or designee shall authorize users for access to UIV/EIV systems and data only where necessary.

The security officer(s) shall be responsible for determining and reporting to the Executive Director any instances of improper disclosure of UIV/EIV data and/or unauthorized access of UIV/EIV systems.

The Executive Director or designee shall monitor UIV/EIV procedures to ensure ongoing compliance. Procedures will be updated as needed.

### **Disclosure to Applicants and Residents, Data Security and Disposition**

DHC shall inform applicants and residents that DHC will make use of UIV/EIV systems during the application process and at each annual reexamination. This disclosure shall include the following:

A brief explanation of the UIV/EIV system.

A brief explanation of how income discrepancies are identified, the potential effect on rental calculations, and penalties for committing fraud. A brief explanation of how discrepancies are resolved.

A brief explanation of the actions DHC may take based on verified unreported or underreported income.

Each resident and applicant file shall contain a properly completed, active HUD 9886 Form or equivalent, granting DHC access to UIV/EIV data.

UIV/EIV data shall be kept in a locked, fire-resistant filing cabinet(s), and only those staff members who have been authorized by the Executive Director may be given keys and/or access to the data. The Executive Director shall maintain a list of users receiving keys. The filing cabinet(s) shall in turn be secured behind a door locked whenever the office is closed.

Proper disposition of UIV/EIV data shall be performed by cross-shredding.

### **Criminal Records**

DHC may only disclose the criminal conviction records which DHC receives from a background check 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. DHC must establish and implement a system of records management that ensures that any criminal record received by DHC from a background check 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 or final disposition of any such litigation.

DHC must establish and implement a system of records management that ensures that any sex offender registration information received by DHC from the background check 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's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information or is obtained by DHC other than under federal regulations.

### **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

should not place this information in the resident file. DHC should destroy the document.

### **Domestic Violence, Dating Violence, Sexual assault, stalking, or human trafficking Records**

For requirements and DHC's policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, see section 16-VII.E.

## **PART VI: REPORTING REQUIREMENTS FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VI.A. REPORTING REQUIREMENTS**

DHC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level within 5 business days of being so notified by any other medical health care professional.

DHC will provide written notice of each known case of a child with an environmental intervention blood level to the HUD field office within 20 business days of receiving the information.

## **PART VII: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY**

### **16-VII.A. OVERVIEW**

The Violence Against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and DHC policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and DHC policies are located in Chapter 3,

"Eligibility" (sections 3-I.C and 3-III.F); Chapter 5, "Occupancy Standards and Unit Offers" (section 5-II.D); Chapter 8, "Leasing and Inspections" (section 8-I.B); Chapter 12, "Transfer Policy" (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, "Lease

Terminations” (sections 13-III.F and 13-IV.D).

## **16-VII.B. DEFINITIONS**

For purposes of determining whether a public housing applicant or resident may be covered by VAWA, the following list of definitions applies:

VAWA defines bifurcate to mean, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain residents can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.

VAWA defines domestic violence to include felony or misdemeanor crimes of violence committed by any of the following:

A current or former spouse or intimate partner of the victim;

A person with whom the victim shares a child in common;

A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;

A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or

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.

VAWA defines dating violence as 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:

1. The length of the relationship;
2. The type of relationship; and
3. The frequency of interaction between the persons involved in the relationship.

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 person stands in the position or place of a parent; or

4. Any individual, resident or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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.

VAWA defines stalking as 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.

The term *economic abuse* means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

The term *technological abuse* means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies



### **16.VII.C. NOTIFICATION TO PUBLIC**

DHC will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A notice of occupancy rights under VAWA to public housing program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation

A copy of DHC's Emergency Transfer Plan

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383

### **16.VII.D. EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

#### **Emergency Transfers**

In accordance with the Violence Against Women Act (VAWA),<sup>1</sup> DHC allows residents who are victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking to request an emergency transfer from the resident's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The ability of DHC to honor such requests for residents currently receiving assistance, however, may depend upon a preliminary determination that the resident is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and on whether DHC has another dwelling unit that is available and is safe to offer the resident for temporary or more permanent occupancy.

This plan identifies residents who are eligible for an emergency transfer under VAWA, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to residents on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of

Housing and Urban Development (HUD), the Federal agency that oversees that the Detroit Housing Commission Public Housing Program is in compliance with VAWA.

### **1.-Eligibility for Emergency Transfers**

A resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an

emergency transfer, if: the resident reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit. If the resident is a victim of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A resident requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Residents who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section. Residents may conveniently use HUD form 5383 to make an emergency transfer request. Residents are not required to use Form 5383 but may make a request following the procedures as stated in this section. (See Exhibit 16.VII.D.1)

### **2.-Emergency Transfer Request Documentation**

To request an emergency transfer, the resident shall notify DHC's management office and submit a written request for a transfer to DHC Director of Real Estate Management, 1301 E. Jefferson Ave., Detroit, MI 48207. DHC will provide reasonable accommodations to this policy for individuals with disabilities. The resident's written request for an emergency transfer should include either:

- a. A statement expressing that the resident reasonably believes that there is a threat of imminent harm from further violence if the resident were to remain in the same dwelling unit assisted under DHC's program; or
- b. A statement that the resident was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the resident's

request for an emergency transfer; or

c. The information also may be provided by using HUD Form 5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation and Alternate Documentation (Exhibit 16-VII.D 2)

### **3.-Confidentiality**

DHC will keep confidential any information that the resident submits in requesting an emergency transfer, and information about the emergency transfer, unless the resident gives DHC written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the public housing program. This includes keeping confidential the new location of the dwelling unit of the resident, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, stalking, or human trafficking against the resident. See the Notice of Occupancy Rights under the Violence Against Women Act For All Residents for more information about DHC's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

### **4.-Emergency Transfer Timing and Availability**

DHC cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. DHC will, however, act as quickly as possible to move a resident who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to another unit, subject to availability and safety of a unit. If a resident reasonably believes a proposed transfer would not be safe, the resident may request a transfer to a different unit. If a unit is available, the transferred resident must agree to abide by the terms and conditions that govern occupancy in the unit to which the resident has been transferred.

DHC may be unable to transfer a resident to a particular unit if the resident has not or cannot establish eligibility for that unit. DHC has the discretion to make a temporary transfer to a unit that a resident may transfer to if the unit is available and there are no

other transfers eligible for the unit. Once a unit becomes available that the resident qualifies for, the resident must accept the offer for the eligible unit or be subject to lease termination. Lease termination is an adverse action taken by DHC against the resident. In such case the resident will have a right to utilize the currently established DHC grievance procedure under Section 14-III of this ACOP in accordance with 24 CFR. Part 966.

If DHC has no safe and available units for which a resident who needs an emergency transfer is eligible, DHC will assist the resident in identifying other housing providers who may have safe and available units to which the resident could move. At the resident's request, DHC will also assist residents in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

A copy of those agencies will be made available in the site offices and in the Director of Real Estate Management's office. Also, the information will be available on DHC's website, [www.dhcmi.org](http://www.dhcmi.org).

## **5.-Safety and Security of Residents**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the resident is urged to take all reasonable precautions to be safe.

Residents who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Residents who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Residents 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>.

#### **16.VII.E. NOTIFICATION TO APPLICANTS AND RESIDENTS**

DHC is required to inform public housing applicants and residents 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.

DHC must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

DHC will provide all applicants with information about VAWA at the time they request an application for housing assistance. DHC will also include such information in all notices of denial of assistance (see section 3-III.F).

DHC will provide all residents with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. DHC will also include such information in all lease termination notices (see section 13-IV.D).

DHC is not limited to providing VAWA information at the times specified in the above policy. DHC may decide to provide VAWA information to a resident following an incident of domestic violence.

Whenever DHC has reason to suspect that providing information about VAWA to a resident might place a victim of domestic violence at risk, it will not mail the information but will attempt to make alternative delivery arrangements.

#### **16-VII.F. DOCUMENTATION FOR INITIAL OR CONTINUED ASSISTANCE**

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, stalking, or human trafficking, 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. 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 incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

A federal, state, tribal, territorial, or local police report or court record, or an administrative record.

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.

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, stalking, or human trafficking 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.

DHC may, in its discretion, extend the deadline for 10 business days. Any extension granted by the DHC will be in writing.

### **Conflicting Documentation**

In cases where DHC 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, DHC may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 1 and 2) and by following any HUD guidance on how such determinations should be made.

DHC must honor any court orders issued to protect the victim or to address the distribution of property.

### **Discretion to Require No Formal Documentation**

DHC 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. If DHC accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, DHC will document acceptance of the statement or evidence in the individual's file.

### **Failure to Provide Documentation**

In order to deny relief for protection under VAWA, DHC 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 DHC may allow, DHC may deny relief for protection under VAWA.

## **16-VII.G. CONFIDENTIALITY**

All information provided to DHC regarding domestic violence, dating violence, sexual assault, stalking, or human trafficking, including the fact that an individual is a victim of domestic violence,

dating violence, sexual assault, stalking, or human trafficking, must be retained in confidence. This means that DHC (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.

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.

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<sup>1</sup> Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.



## **GLOSSARY ACRONYMS USED IN SUBSIDIZED**

### **HOUSING**

AAF Annual adjustment factor (published by HUD in the Federal Register and used to compute annual rent adjustments)

ACC Annual contributions contract

ACOP Admissions and continued occupancy policy

ADA Americans with Disabilities Act of 1990

BR Bedroom

CDBG Community Development Block Grant (Program)

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)

CPI Consumer price index (published monthly by the Department of Labor as an inflation indicator)

EIVEnterprise Income Verification

FDIC Federal Deposit Insurance Corporation

FHAFederal Housing Administration

FICA Federal Insurance Contributions Act (established Social Security taxes)

FMR Fair market rent

FRFederal Register

FSS Family Self-Sufficiency (Program)

FYFiscal year

FYEFiscal year end

GAO Government Accountability Office

GRGross rent

HAP Housing assistance payment

HCV Housing choice voucher

HIP Housing Information Portal

**HOTMA** Housing Opportunity through Modernization Act of 2016

HQS Housing quality standards

HUD Department of Housing and Urban Development

HUDCLIPS HUD Client Information and Policy System

IPAIndependent public accountant

IRA Individual Retirement Account

IRS Internal Revenue Service

JTPA Job Training Partnership Act

LBP Lead-based paint

MSA Metropolitan statistical area (established by the U.S. Census Bureau)

MTCS Multi-family Tenant Characteristics System (now the Form HUD-50058 sub module of the PIC system)

MTW Moving to Work

NOFA Notice of funding availability

**NSPIRE** National Standards for the Physical Inspection of Real Estate

OIG HUD's Office of Inspector

OMB Office of Management and Budget PHA Public housing agency

PIC PIH Information Center

PIH (HUD Office of) Public and Indian Housing

|       |                                                                                                                                |                       |
|-------|--------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| PS    | Payment standard                                                                                                               |                       |
| QC    | Quality control                                                                                                                |                       |
| QHWRA | Quality Housing and Work Responsibility Act of 1998<br>(also known as the Public Housing Reform Act)                           |                       |
| REAC  | (HUD) Real Estate Assessment Center                                                                                            |                       |
| RFP   | Request for proposals                                                                                                          |                       |
| RFTA  | Request for tenancy approval                                                                                                   |                       |
| RIGI  | Regional inspector general for investigation<br>(handles fraud and program abuse matters for HUD at the regional office level) |                       |
| SEMAP | Section 8 Management Assessment Program SRO                                                                                    | Single room occupancy |
| SSA   | Social Security Administration                                                                                                 |                       |
| SSI   | Supplemental security income                                                                                                   |                       |
| TANF  | Temporary assistance for needy families                                                                                        |                       |
| TPV   | Tenant protection vouchers                                                                                                     |                       |
| TR    | Tenant rent                                                                                                                    |                       |
| TTP   | Total tenant payment                                                                                                           |                       |
| UA    | Utility allowance                                                                                                              |                       |
| UIV   | Upfront income verification                                                                                                    |                       |
| URP   | Utility reimbursement payment                                                                                                  |                       |
| VAWA  | Violence Against Women Act                                                                                                     |                       |

## GLOSSARY OF SUBSIDIZED HOUSING TERMS

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

**Adjusted income.** Annual income (as determined under 24 CFR 5.609), of the members of the family residing or intending to reside in the dwelling unit less allowable HUD deductions and allowances.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative plan.** The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

**Affiliated individual.** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in loco parentis (in the position or place of a parent), or any individual, resident, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual income.** The anticipated total income of an eligible family from all sources for

the 12-month period following the date of determination of income, computed in accordance with the regulations.

***Applicant (applicant family).*** A family that has applied for admission to a program but is not yet a participant in the program.

***Area exception rent.*** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

***As-paid states.*** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

***Assets.*** (See net family assets.)

***Auxiliary aids.*** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

***Bifurcate.*** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

***Budget authority.*** An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

***Child.*** A member of the family other than the family head or spouse who is under 18 years of age.

***Child care expenses.*** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the

amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**Co-head.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

**Common space.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of databases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.

**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606– 609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding

increment.

**Cooperative (term includes mutual housing).** Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

The length of the relationship

The type of relationship

The frequency of interaction between the persons involved in the relationship

**Day laborer.** An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of dependent as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus

for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See person with disabilities.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** As defined in 42 U.S.C. 1437f(f)(5).

**Drug-trafficking.** The illegal manufacture, sale, or distribution, or the possession with intent to manufacture, sell, or distribute, of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Earned income.** Income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received



in which no goods or services are being paid for, such as welfare, Social Security, and governmental subsidies for certain benefits), or any cash or in-kind benefits.

**Economic abuse.** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, co-head, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family (Family).** A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents which must be submitted as evidence of citizenship or eligible immigration status. (See 24 CFR 5.508(b).)

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area as determined by HUD, whichever number is higher, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. (See 24 CFR 5.603.)

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the Federal Register in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, and marital status, and can be further defined in PHA policy.

- A single person, who may be:
  - o An elderly person, displaced person, disabled person, near-elderly person, or any other single person;
  - o An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H)

of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

- A group of persons residing together, and such group includes, but is not limited to:
  - o 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);
  - o An elderly family;
  - o A near-elderly family;
  - o A disabled family;
  - o A displaced family; and
  - o The remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the Federal Government.

**Foster adult.** A member of the household who is 18 years of age or older and meets the definition of a foster adult under State law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

**Foster child.** A member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

**Foster child care payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a fulltime

basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). (See 24 CFR 5.603)

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gender identity.** Actual or perceived gender-related characteristics.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See person with disabilities.)

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Health and medical care expenses.** Health and medical care expenses are any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to

owner.

**Housing agency (HA).** See public housing agency.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. See 22 U.S.C. § 7102(11)(A).
- Forced labor is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See 22 U.S.C. § 7102(11)(B).

**Immediate family member.** A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or any other person living in the household of that person and related to that person by blood and marriage.

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** When the value of net family assets exceeds \$50,000 and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

***Income-based rent.*** A tenant rent that is based on the family's income and the PHA's rent policies for determination of such rents.

***Income for eligibility.*** Annual income.

***Income information*** means information relating to an individual's income, including:

All employment income information known to current or previous employers or other income sources

All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law

Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received

Unearned IRS income and self-employment wages and retirement income

Wage, social security, and supplemental security income data obtained from the Social Security Administration.

***Independent contractor.*** An individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done.

***Individual with handicaps.*** See person with disabilities.

***Initial PHA.*** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

***Initial payment standard.*** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

Is determined to be essential to the care and well-being of the persons;

Is not obligated for the support of the persons; and

Would not be living in the unit except to provide the necessary supportive services.

**Local Preference.** A preference used by the PHA to select among applicant families.

**Low-Income Family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

**Minor.** A member of the family household other than the family head or spouse, who is under 18 years of age.

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of cooperative.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.



**Net family assets.** (1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. (2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets. (3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives

assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family. (4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Non-public housing over-income family.** A family whose income exceeds the over-income limit for 24 consecutive months and is paying the alternative non-public housing rent.

**Over-income family.** A family whose income exceeds the over-income limit.

**Over-income limit.** The over-income limit is determined by multiplying the applicable income limit for a very low-income family, as defined in 24 CFR 5.603(b), by a factor of 2.4

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the Federal Register document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with disabilities.** For the purposes of program eligibility. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. For the purposes of reasonable accommodation. A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Private space.** In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Real property.** Has the same meaning as that provided under the law of the State in which the property is located.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA’s programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the

tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called reexamination. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See residency preference area).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Seasonal worker.** An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under

Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Sexual Assault.** Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent” (42 U.S.C. 13925(a)).

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.) **Single Person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including

manufactured home space rental).

***Specified welfare benefit reduction.*** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

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

***Stalking.*** To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

***State wage information collection agency (SWICA).*** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

***Subsidy standards.*** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

***Suspension.*** Stopping the clock on the term of a family's voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called tolling.

***Tax credit rent.*** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing

tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See family rent to owner.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unearned income.** Any annual income, as calculated under § 5.609, that is not earned income.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for



an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Violence Against Women Reauthorization Act (VAWA) of 2013.** Prohibits denying admission to, denying assistance under, or evicting from a public housing unit an otherwise qualified applicant or resident on the basis that the applicant or resident is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (housing choice voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

***Voucher holder.*** A family holding a voucher with an unexpired term (search time).

***Voucher program.*** The housing choice voucher program.

***Waiting list admission.*** An admission from the PHA waiting list.

***Welfare assistance.*** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), welfare assistance includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

## APPENDIX A FIREARMS AND WEAPONS POLICY

### Introduction:

The Detroit Housing Commission (DHC) recognizes the importance of protecting its residents' health, welfare, and safety while simultaneously protecting the rights of its residents to keep and bear arms as established by the federal and state constitutions. To that end, DHC adopts the following Firearms and Weapons Policy.

### Policy:

Residents, members of the Resident's household, and guests:

1. Shall comply with all local, state, and federal legal requirements applicable to the ownership, possession, transportation, and use of firearms or other weapons.

The term "firearm" includes any weapon from which a dangerous projectile may be propelled by an explosive or by gas or air, whether operable or inoperable, loaded or unloaded. It does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

2. Shall not discharge or use any firearm or other weapons on DHC property except when done in self-defense.

3. Shall not display a firearm or other weapon in any common areas, except where the firearm or other weapon is being transported to or from the Resident's unit or is being used in self-defense.

4. Shall not carry a concealed firearm, without a license to carry a concealed firearm as required by MCL 28.422, or other concealed weapon, except in accordance with Michigan law, in any common areas, except where the firearm or other weapon is being transported to or from the Resident's unit or is being used in self-defense.

5. Shall have available for inspection a copy of any permit, license, or other documentation required by state, local, or federal law for the ownership, possession, or transportation of any firearm or other weapon, including a license to carry a concealed weapon as required by MCL 28.422, upon request, when there is reasonable cause to believe that the law or this policy has been violated.
6. Shall exercise reasonable care in the storage of loaded or unloaded firearms and ammunition or other weapons.
7. Shall not allow a minor under 16 years of age to have possession of a firearm, BB gun, air gun, or spear gun unless under the direct supervision of an adult.
8. Shall not give or otherwise transfer to a minor under 18 years of age a firearm or ammunition for a firearm, unless the person is that child's parent or guardian, or unless the person first receives the permission of the minor's parent or guardian.

Violation of this policy by any Resident or member of the Resident's household shall be grounds for immediate lease termination and eviction. In addition, a Resident or member of the Resident's household who knowingly permits a guest to violate this policy shall be subject to immediate lease termination and eviction.

## **APPENDIX B:**

### **USE OF COMMUNITY CENTER AND/OR KITCHEN PROTOCOL**

The Community Center (“Center”) and kitchen are facilities that were built with the prime objective of providing a setting that would serve to help in the enrichment of the lives of DHC Residents. The degree to which this objective becomes a reality depends jointly on both DHC management and Residents. This protocol applies to use of community centers and community rooms by and through DHC residents.

#### **A. General Conditions**

##### **1. Who may use the Center and/or kitchen?**

Any Resident, 21 years or over, of the development is eligible to use the Center and/or kitchen. Individuals or groups wishing to use the Center and/or kitchen for meetings, parties, plays, dances, weddings, christenings, etc., must first obtain permission from the Site Manager who may consult with officers of the Resident Council prior to making a decision. Outside organized groups must be sponsored by a member of the Resident Council or DHC.

##### **2. How to apply for the Center and/or kitchen?**

To obtain approval for use, a written request must be submitted to the Site Manager. The request must contain the following information: (a) name of the person applying, (b) date of the application, (c) date of the activity, (d) purpose for which the Center and/or kitchen will be used, (e) time during which the Center and/or kitchen will be used, and (f) requester’s signature.

The request must be submitted to the Site Manager at least one (1) week in advance of the date of the planned function. Within five (5) calendar days following receipt of the application, the Site Manager, after consultation with Resident Council regarding details of the event shall confirm with the applicant whether the request is approved. To facilitate submission of a request for use of the Center and/or kitchen, application forms are

available in the Site Manager's Office. Site Managers may not accept cash monies for the use of the Center. Documented damages must be charged to the resident or sponsor.

3. Whenever the use of the Center and/or kitchen is being requested for a sponsored organized group other than DHC staff for DHC business purposes, the name of the group shall appear on the application in addition to the sponsoring resident or Resident Council. Both the sponsor and sponsored shall be responsible for the group's compliance with this policy.

4. The Site Manager or his representative shall inspect the Center and/or kitchen before an event to ensure its readiness for a function and after a function to determine whether the deposit may be refunded. In the event of damages to the property or equipment, the sole responsibility for repairs or replacement shall rest with the sponsor or resident who was approved to use the Center and/or kitchen on his/her behalf or on behalf of a group. Police reports may document property damage or stolen items. DHC may also use the observation of staff or residents as verification of property loss or damage. DHC may pursue legal action, if necessary.

No resident or sponsored organized group is allowed to charge a fee of anyone to participate in or attend any event that takes place on DHC's property without DHC's prior, written consent.

6. Closing time will be 9:00 pm except in special circumstances in which case the Site Manager will determine beginning and closing times after consulting with the resident, resident council and/or sponsor.

In special cases, the Center and/or kitchen may be kept open beyond 9:00 pm. Special events approved for after 9:00 pm must be mindful of the peaceful enjoyment of others and accommodate such when requested.

7. Written criticism and suggestions concerning the operation of the Center and/or kitchen shall be made to the Site Manager.

8. A weekly activity schedule will be posted so that Residents can be aware of activities planned for the Center and/or kitchen.
9. All sponsored organized groups must agree to hold DHC harmless and indemnify DHC from potential liability.
10. DHC, at its discretion, may deny or cancel any request for use of the Center and/or kitchen and DHC will not be liable for any cost associated with the denial or cancellation of any request.

## **B. Fees**

1. Residents, as individuals or sponsor, who request the use of the Center will be required to pay a non-refundable fee of \$50.00 with the application.
2. Fee will be accepted in the form of money order only, completely filled out and made payable to DHC.
3. Any damages to DHC property and/or the Center will be the responsibility of the Resident.

## **C. Special Conditions**

Residents and/or sponsored groups receiving permission for use of the Center must comply with the following requirements:

1. Floors must be swept and mopped after each function.
2. Toilet areas must be cleaned, toilets flushed, urinals and washbasins cleaned, floor swept and mopped.
3. Garbage must be collected and removed.
4. Supplies and furnishings, such as chairs, tables, book benches, etc. must be returned to their proper places.
5. The grounds, i.e., area surrounding the Center must be cleared of debris (paper or plastic cups, plates, cans, bottles, napkins, etc.).

6. After the activity, all doors and gates must be properly secured.
7. All lights must be turned off except those outside lights that are required to remain on.
8. Within 72 business hours after the function, the Resident must complete the post function section of the application, with the DHC designee.
9. The function must end before or at the time designated.
10. If other recreational areas are requested and approved for use, the grounds and surrounding areas must be cleared of debris and garbage.
11. At the discretion of DHC, Failure to clean up properly may result in warnings, fines and/or eventual prohibition from future use of the Center and/or kitchen.
12. Professional conduct is expected at all times.
13. Disruptive music, language, or activities may be considered a lease violation

**IN ADDITION TO THE ABOVE REQUIREMENTS**, residents and/or sponsored groups receiving permission for use of the kitchen must comply with the following requirements:

1. In order to ensure that users of the kitchen are familiar with proper food handling and storage procedures, all food items prepared or served must be done by persons with a valid Food Handlers or Food Safety Certificate. This can be obtained from the following entity: [Rockcityfoodsafety.com](http://Rockcityfoodsafety.com)
2. Treat common areas and equipment with care.
3. Kitchen equipment, utensils and furnishings must be cleaned.
4. Report any equipment damage or malfunction immediately for repair to the Site Manager.
5. Clean up properly – wipe down and sanitize with a (for use on kitchens) cleaning agent, all utilized equipment and work areas. Wash kitchen wares and return to their proper location.



6. Bring your own disposables and food storage items – foil, plastic wrap, Ziplocs, food storage containers & parchment.
7. Do not leave food items in the refrigerator or kitchen area.
8. Clean as you go to maintain a safe and tidy environment.
9. Only authorized kitchen user may be present in the facility unless advance permission is obtained.
10. Never leave the burners on unattended. If you need to get something, ask someone else to watch over your burner.
11. Clean up all grease spills. Do not cook on the stove if the burner is dirty.
12. Do not leave the oven unattended for more than 15 minutes at a time.
13. In case of a small grease fire, douse the area with baking soda and/or cover the area with the lid of a pot. Do NOT use water, as this will only move the fire without putting it out.
14. In case of a large fire, pull the fire alarm.
15. Wash your hands with soap before cooking, after touching meat, after touching the trash, and more often as desired.
16. Philanthropic meals programs must enter agreements to hold DHC harmless and indemnify DHC from potential liability.
17. For-profit meals programs must provide liability insurance that names DHC as an additional insured.

NOTE: DHC may at its discretion deny or cancel any use of the Center and/or kitchen without cost to DHC.

## APPLICATION FOR THE USE OF THE COMMUNITY CENTER

Name of Resident Requesting Center: \_\_\_\_\_

Group or Affiliation: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date of Activity: \_\_\_\_\_

Time of Activity: \_\_\_\_\_ Purpose: \_\_\_\_\_

Please specify with an (X) whether the kitchen area will be utilized:

The kitchen will be used: \_\_\_\_\_

The kitchen will not be used: \_\_\_\_\_

I have read the Use of the Community Center and Kitchen Policy and agree to abide by its requirements.

\_\_\_\_\_

Resident Requesting Use of Center and/or Kitchen Date

\_\_\_\_\_

(Do not write below this line)

The Community Center and Kitchen Policy was reviewed and agreed to by the applicant as evidence by his/her signature above. \_\_\_\_\_ Yes \_\_\_\_\_ No

Required Fee submitted with the application: \_\_\_\_\_ Yes \_\_\_\_\_ No

Money Order Number: \_\_\_\_\_

Date: \_\_\_\_\_

Amount: \_\_\_\_\_

Application Approved: \_\_\_\_\_

## APPLICATION FOR THE USE OF THE COMMUNITY CENTER AND KITCHEN

Page 2

Date: \_\_\_\_\_

Application Denied: \_\_\_\_\_

Date: \_\_\_\_\_

Reason: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ POST-FUNCTION:

Equipment used and returned in good condition.

\_\_\_\_\_

Applicant Date

INSPECTED ON BEHALF OF DHC BY: \_\_\_\_\_ (Printed Name):

\_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Was the Center cleaned? \_\_Yes\_\_\_\_No

Any damages found? \_\_\_\_\_Yes \_\_\_\_\_No

If yes, please specify:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## APPENDIX C

### DETROIT HOUSING COMMISSION RESIDENTIAL CHARGE LISTING

| SERVICE<br>PLUMBING           | TIME<br>(HRS) | LABOR<br>RATE | RATE<br>AFTER-<br>HOURS,<br>WEEKENDS,<br>HOLIDAYS | MATERIAL<br>COST | CHARGE<br>AFTER-<br>HOURS,<br>WEEKENDS,<br>HOLIDAYS | TOTAL<br>CHARGE<br>8:00 a.m.<br>-4:30p.m. |
|-------------------------------|---------------|---------------|---------------------------------------------------|------------------|-----------------------------------------------------|-------------------------------------------|
| Unstop commode                | 1             | 37.65         | 56.48                                             | \$ -             | 56.48                                               | 37.65                                     |
| Unstop lavatory/bathroom sink | 1             | 37.65         | 56.48                                             | \$ -             | 56.48                                               | 37.65                                     |
| Unstop tub/shower             | 1             | 37.65         | 56.48                                             | \$ -             | 56.48                                               | 37.65                                     |
| Unstop pull commode           | 1.5           | 37.65         | 56.48                                             | \$ -             | 84.71                                               | 56.48                                     |
| Unstop kitchen sink           | 1             | 37.65         | 56.48                                             | \$ -             | 56.48                                               | 37.65                                     |
| Replace toilet bowl           | 2             | 37.65         | 56.48                                             | \$ 26.00         | 138.95                                              | 101.30                                    |
| Replace toilet tank           | 1             | 37.65         | 56.48                                             | \$ 59.00         | 115.48                                              | 96.65                                     |
| Replace ballcock              | 1             | 37.65         | 56.48                                             | \$ 19.00         | 75.48                                               | 56.65                                     |
| Replace flush handle          | 0.3           | 37.65         | 56.48                                             | \$ 12.00         | 28.94                                               | 23.30                                     |
| Replace bathtub faucet seat   | 0.5           | 37.65         | 56.48                                             | \$ 8.00          | 36.24                                               | 26.83                                     |

|                                 |     |       |       |           |        |        |
|---------------------------------|-----|-------|-------|-----------|--------|--------|
| Replace garbage disposal        | 1   | 37.65 | 56.48 | \$ 54.55  | 111.03 | 92.20  |
| FINISH CARPENTRY                |     |       |       |           |        |        |
| Replace interior door hinges    | 1   | 35.98 | 53.97 | \$ 5.00   | 58.97  | 40.98  |
| Replace exterior door hinges    | 1   | 35.98 | 53.97 | \$ 5.00   | 58.97  | 40.98  |
| Replace screen door             | 1   | 35.98 | 53.97 | \$ 154.00 | 207.97 | 189.98 |
| GLAZIER                         |     |       |       |           |        |        |
| Replace JDW cloth               | 1   | 33.79 | 50.69 | \$ 3.00   | 53.69  | 36.79  |
| Replace window screen           | 0.5 | 33.79 | 50.69 | \$ 21.00  | 46.34  | 37.90  |
| Repair window screen            | 0.5 | 33.79 | 50.69 |           | 25.34  | 16.90  |
| Replace channel screen          | 1   | 33.79 | 50.69 | \$ 12.90  | 63.59  | 46.69  |
| Replace insulated window pane   | 1   | 33.79 | 50.69 |           | 50.69  | 33.79  |
| Replace Plexiglas window        | 1   | 33.79 | 50.69 | \$ 64.00  | 114.69 | 97.79  |
| Install vertical Venetian blind | 0.5 | 33.79 | 50.69 |           | 25.34  | 16.90  |
| Replace screen door panel       | 1   | 33.79 | 50.69 | \$ 25.00  | 75.69  | 58.79  |
| Remove window                   | 1.5 |       |       |           |        | 50.69  |

|                                                            |     |       |       |           |        |        |
|------------------------------------------------------------|-----|-------|-------|-----------|--------|--------|
| mullion                                                    |     | 33.79 | 50.69 |           | 76.03  |        |
| Reinstall window mullion                                   | 1.5 | 33.79 | 50.69 |           | 76.03  | 50.69  |
| Replace screen door<br>insert<br><br>LOCKSMITH             | 0.5 | 33.79 | 50.69 | \$ 25.00  | 50.34  | 41.90  |
| Re-key lock                                                | 0.5 | 35.98 | 53.97 | \$ 25.00  | 51.99  | 42.99  |
| Replace lock cylinder                                      | 0.5 | 35.98 | 53.97 | \$ 15.00  | 41.99  | 32.99  |
| Replace passage set                                        | 0.5 | 35.98 | 53.97 | \$ 10.00  | 36.99  | 27.99  |
| Replace mortice lock set                                   | 1   | 35.98 | 53.97 | \$ 200.00 | 253.97 | 235.98 |
| Key replacement                                            | 0.3 | 35.98 | 53.97 | \$ 2.50   | 18.69  | 13.29  |
| Key card replacement                                       | 0   |       | -     | \$ 10.00  | 10.00  | 10.00  |
| Tenant lock out<br><br>(Senior Sites)                      | 0.5 | 35.98 | 71.96 |           | 71.96  | 17.99  |
| Unlock door (All other<br>sites)                           | 1   | 35.98 | 71.96 |           | 71.96  | 35.98  |
| MAINTENANCE TECHNICIANS<br>4:30 p.m.8:30a.m. (After-hours) |     |       |       |           |        |        |

|                                    |       |          |       |       |
|------------------------------------|-------|----------|-------|-------|
| Replace toiler lid cover 0.3 23.78 | 35.67 | \$ 30.00 | 40.70 | 37.13 |
| Replace toilet seat 1 23.78        | 35.67 | \$ 10.00 | 45.67 | 33.78 |

|                               |     |       |       |          |       |       |
|-------------------------------|-----|-------|-------|----------|-------|-------|
|                               |     |       |       |          |       |       |
| Replace metal tissue holder   |     |       |       | \$ 10.00 | 20.70 | 17.13 |
| Replace ceramic tissue holder | 1   | 23.78 | 35.67 | \$ 15.00 | 50.67 | 38.78 |
| Replace tissue roller         | 0.3 | 23.78 | 35.67 | \$ 2.00  | 12.70 | 9.13  |
| Replace lavatory/tub stopper  | 0.3 | 23.78 | 35.67 | \$ 2.00  | 12.70 | 9.13  |
| Replace basket strainer       | 0.3 | 23.78 | 35.67 | \$ 10.00 | 20.70 | 17.13 |
| Replace tub rail              | 0.5 | 23.78 | 35.67 | \$ 50.00 | 67.84 | 61.89 |
| Replace tub mat               | 0.3 | 23.78 | 35.67 | \$ 10.00 | 20.70 | 17.13 |
| Install tub/shower handrail   | 1   | 23.78 | 35.67 |          | 35.67 | 23.78 |
| Replace shower rod            | 0.5 | 23.78 | 35.67 | \$ 7.00  | 24.84 | 18.89 |
| Replace medicine cabinet      | 1.5 | 23.78 | 35.67 | \$ 36.00 | 89.51 | 71.67 |

|                           |      |       |       |          |        |        |
|---------------------------|------|-------|-------|----------|--------|--------|
| Replace range hood        | 0.5  | 23.78 | 35.67 | \$ 88.50 | 106.34 | 100.39 |
| Replace mirror            | 1    | 23.78 | 35.67 | \$ 10.00 | 45.67  | 33.78  |
| Replace door stop, solid  | 0.75 | 23.78 | 35.67 | \$ 3.00  | 29.75  | 20.84  |
| Replace door stop, spring | 0.5  |       |       | \$ 3.00  | 20.84  | 14.89  |

|                                |      |       |       |          |       |       |
|--------------------------------|------|-------|-------|----------|-------|-------|
| Replace door stop, disk        |      |       |       | \$ 3.00  | 13.70 | 10.13 |
| Replace mailbox flap           | 0.5  | 23.78 | 35.67 | \$ 15.00 | 32.84 | 26.89 |
| Replace mailbox lock           | 0.5  | 23.78 | 35.67 | \$ 8.00  | 25.84 | 19.89 |
| Replace tubular latch          | 0.5  | 23.78 | 35.67 | \$ 10.00 | 27.84 | 21.89 |
| Replace door knob, exterior    | 0.5  | 23.78 | 35.67 | \$ 15.00 | 32.84 | 26.89 |
| Replace spindle, exterior      | 0.5  | 23.78 | 35.67 | \$ 5.00  | 22.84 | 16.89 |
| Replace knob spindle, exterior | 0.5  | 23.78 | 35.67 | \$ 5.00  | 22.84 | 16.89 |
| Replace door sweep, exterior   | 0.5  | 23.78 | 35.67 | \$ 5.50  | 23.34 | 17.39 |
| Replace door weather-stripping | 0.75 | 23.78 | 35.67 | \$ 29.00 | 55.75 | 46.84 |
| Replace screen door hinges     | 0.75 | 23.78 | 35.67 | \$ 2.00  | 28.75 | 19.84 |



|                             |     |       |       |          |       |       |
|-----------------------------|-----|-------|-------|----------|-------|-------|
| Replace screen door closure | 1   | 23.78 | 35.67 | \$ 5.00  | 40.67 | 28.78 |
| Replace screen door lock    | 0.5 | 23.78 | 35.67 | \$ 5.00  | 22.84 | 16.89 |
| Replace oven control        | 0.5 | 23.78 | 35.67 | \$ 12.00 | 29.84 | 23.89 |
| Replace range knob          | 0.3 |       |       | \$ 2.50  | 13.20 | 9.63  |

|                               |     |       |       |          |       |       |
|-------------------------------|-----|-------|-------|----------|-------|-------|
| Replace oven handle           |     |       |       | \$ 10.00 | 20.70 | 17.13 |
| Replace gas cock              | 1   | 23.78 | 35.67 |          | 35.67 | 23.78 |
| Replace grate (single burner) | 0.5 | 23.78 | 35.67 | \$ 10.00 | 27.84 | 21.89 |
| Replace grate (vestal)        | 0.5 | 23.78 | 35.67 |          | 17.84 | 11.89 |
| Replace terminal block 5-9    | 0.5 | 23.78 | 35.67 | \$ 10.00 | 27.84 | 21.89 |
| Replace bake element 5-9      | 0.5 | 23.78 | 35.67 | \$ 12.00 | 29.84 | 23.89 |
| Replace broiler element 5-9   | 0.5 | 23.78 | 35.67 | \$ 12.00 | 29.84 | 23.89 |
| Replace 6" surface unit 5-9   | 0.3 | 23.78 | 35.67 | \$ 10.00 | 20.70 | 17.13 |
| Replace 8" surface unit 5-9   | 0.3 | 23.78 | 35.67 | \$ 15.00 | 25.70 | 22.13 |
| Replace 6" chrome bowl 5-9    | 0.3 | 23.78 | 35.67 | \$ 2.00  | 12.70 | 9.13  |

|                                |     |       |       |          |       |       |
|--------------------------------|-----|-------|-------|----------|-------|-------|
| Replace 8" chrome bowl<br>5-9  | 0.3 | 23.78 | 35.67 | \$ 4.00  | 14.70 | 11.13 |
| Replace 6" top element<br>5-13 | 0.3 | 23.78 | 35.67 | \$ 10.00 | 20.70 | 17.13 |
| Replace 8" top element<br>5-13 | 0.3 | 23.78 | 35.67 | \$ 15.00 | 25.70 | 22.13 |
| Replace bake element 5-<br>13  | 0.5 |       |       | \$ 15.00 | 32.84 | 26.89 |

|                               |      |       |       |          |       |       |
|-------------------------------|------|-------|-------|----------|-------|-------|
| Replace oven door 5-13        | 0.75 |       |       | \$ 20.00 | 46.75 | 37.84 |
| Install closet rod            | 0.5  | 23.78 | 35.67 |          | 17.84 | 11.89 |
| Install closet rod bracket    | 0.5  | 23.78 | 35.67 |          | 17.84 | 11.89 |
| Replace towel rack (wall)     | 0.5  | 23.78 | 35.67 | \$ 5.00  | 22.84 | 16.89 |
| Replace towel rack            | 0.5  | 23.78 | 35.67 | \$ 10.00 | 27.84 | 21.89 |
| Install window shades         | 0.5  | 23.78 | 35.67 |          | 17.84 | 11.89 |
| Replace cabinet door<br>hinge | 0.5  | 23.78 | 35.67 | \$ 5.00  | 22.84 | 16.89 |
| Replace garbage can           | 0.3  | 23.78 | 35.67 | \$ 25.00 | 35.70 | 32.13 |
| Smoke detector (battery)      | 0.3  | 23.78 | 35.67 | \$ 10.00 | 20.70 | 17.13 |

|                                       |     |       |       |          |       |       |
|---------------------------------------|-----|-------|-------|----------|-------|-------|
| Replace 9V battery                    | 0.3 | 23.78 | 35.67 | \$ 2.00  | 12.70 | 9.13  |
| ELECTRICIAN                           |     |       |       |          |       |       |
| Replace electric detector             | 0.3 | 37.38 | 56.07 | \$ 20.00 | 36.82 | 31.21 |
| BUILDING ATTENDANT                    |     |       |       |          |       |       |
| Water removal                         | 0.5 | 19.64 | 29.46 |          | 14.73 | 9.82  |
| Cleaning resident's yard <sup>1</sup> |     |       |       | \$ 10.00 |       | 29.64 |

|                                     |     |       |       |           |        |        |
|-------------------------------------|-----|-------|-------|-----------|--------|--------|
|                                     |     | 19.64 | 29.46 |           | 39.46  |        |
| Replace fire extinguisher           | 0.3 | 19.64 | 29.46 |           | 8.84   | 5.89   |
| Clean refrigerator                  | 1   | 19.64 | 29.46 |           | 29.46  | 19.64  |
| Clean stove/range                   | 1   | 19.64 | 29.46 |           | 29.46  | 19.64  |
| REFRIGERATOR                        |     |       |       |           |        |        |
| Replace refrigerator (standard)     | 0.5 | 23.78 | 35.67 | \$ 349.00 | 366.84 | 360.89 |
| Replace refrigerator (side-by-side) | 0.5 | 23.78 | 35.67 | \$ 851.00 | 868.84 | 862.89 |
| STOVES/RANGES                       |     |       |       |           |        |        |

|                                                            |     |       |       |           |        |        |
|------------------------------------------------------------|-----|-------|-------|-----------|--------|--------|
| Replace Range (Gas)                                        | 0.5 | 23.78 | 35.67 | \$ 218.00 | 235.84 | 229.89 |
| Replace Range (Electric 24")                               | 0.5 | 23.78 | 35.67 | \$ 218.00 | 235.84 | 229.89 |
| Replace Range (Electric 30")                               | 0.5 | 23.78 | 35.67 | \$ 218.00 | 235.84 | 229.89 |
| Clean/Adjust burner                                        | 1   | 23.78 | 35.67 |           | 35.67  | 23.78  |
| CITATIONS                                                  |     |       |       |           |        |        |
| Littering (1st offense)                                    |     |       |       |           |        | 54.00  |
| Littering (2nd offense)                                    |     |       |       |           |        | 74.00  |
| Failure to remove trash can from curbside (1st offense)    |     |       |       |           |        | 25.00  |
| Failure to remove trash can from curbside (2nd offense)    |     |       |       |           |        | 45.00  |
| Failure to cut weeds (1st offense)                         |     |       |       |           |        | 54.00  |
| Failure to cut weeds (2nd offense)                         |     |       |       |           |        | 74.00  |
| Early set-out of Bulk items (1st offense)                  |     |       |       |           |        | 54.00  |
| Early set-out of Bulk items (2nd offense)                  |     |       |       |           |        | 74.00  |
| Commercial refuse mixed with domestic refuse (1st offense) |     |       |       |           |        | 100.00 |
| Commercial refuse mixed with domestic refuse (2nd offense) |     |       |       |           |        | 120.00 |
| Burning refuse (1st offense)                               |     |       |       |           |        | 100.00 |
| Burning refuse (2nd offense)                               |     |       |       |           |        | 120.00 |
| Unapproved storage containers (1st offense)                |     |       |       |           |        | 100.00 |

|                                             |        |
|---------------------------------------------|--------|
| Unapproved storage containers (2nd offense) | 120.00 |
| EXCESS MONTHLY CHARGES                      |        |
| Air conditioner (June-September)            | 15.00  |
| Extra refrigerator                          | 15.00  |
| Freezer                                     | 20.00  |
| Replace trash container                     | 50.00  |
| Pets                                        | 10.00  |

## **APPENDIX D**

### **SMOKE-FREE (AMENDED 7/1/2018) POLICY**

#### **Smoke-Free Policy**

As a landlord of public housing units committed to providing a safe and healthful living environment for our residents and, in compliance with 24 CFR 965, Subpart G, Smoke-Free Public Housing, the Detroit Housing Commission (“DHC”) shall be a smoke-free community effective July 1, 2018. All DHC properties shall be smoke-free. Smoking and the burning of incense is strictly prohibited. This Smoke-Free Policy applies to all DHC- owned property regardless of location. No smoking or burning of incense is permitted in any indoor or outdoor area. This includes ALL residential spaces including single family homes.

The Smoke-Free Policy also covers all DHC parking lots so there is no smoking allowed in vehicles parked in the parking lots.

DHC will be a smoke free community. Smoking is prohibited by residents, their guests and visitors, DHC employees and service providers, and all other persons.

“No Smoking” and “Smoke Free Community” signs will be posted outside and inside all buildings.

#### **Definition of Smoking**

The term “smoking” means inhaling, exhaling, breathing, burning, carrying, or possessing any lighted cigar, cigarillo, cigarette (clove, bidis, kreteks), pipe, weed, plant, possession of any other tobacco product or related substance or product. It also means inhaling, exhaling, breathing, carrying, or possessing any activated electronic smoking device, commonly known as e-cigarettes, product. It also means smoking or vaporizing tobacco or other plant material in a waterpipe (Hookah).

#### **Definition of Incense**

A gum, spice, or other substance that is burned for the sweet smell it produces.

## **DHC Not a Guarantor of Smoke Free Environment**

By its adoption of a Smoke-Free Policy, neither DHC nor any of its officers, agents or employees are guarantors of a resident's health or of the smoke-free condition of the property. However, DHC will take reasonable steps to enforce the Smoke-Free Policy.

## **Disclaimer**

DHC's adoption of a smoke-free living environment does not in any way change the standard of care that DHC has under applicable law to render the property any safer, more habitable or improved in terms of air quality standards than any other rental premises. DHC specifically disclaims any implied or express warranties that the property will have any higher or improved air quality standards than any other rental property. DHC cannot and does not warrant or promise that the property will be free from secondhand smoke. DHC's ability to police, monitor or enforce this policy is dependent in significant part on voluntary compliance by residents and residents' guests. Residents with respiratory ailments, allergies or other conditions relating to smoke are put on notice that DHC does not assume any higher duty of care to enforce this policy than any other obligation it has under the Lease.

## **Lease Violation**

Residents are responsible for the actions of their household, their guests and visitors. Failure to adhere to any of the conditions of this policy will constitute a material and a serious violation of the Lease. In addition, residents found to have violated this policy will be responsible for all costs to remove smoke odor or residue.

## **Enforcement**

DHC is not required to take steps in response to smoking unless DHC has actual knowledge or evidence of smoking. Evidence of smoking in a household includes, but is not limited to, smelling fresh or stale smoke, observing ashes or cigarette butts, observing burn marks on furniture, appliances or flooring.

In order to implement this policy in a fair manner, DHC will use the following guidelines.

**1st Violation** – Written warning and provision of smoking cessation materials.

**2nd Violation** – 30-day Termination Notice with option to remedy by signing a Last Chance Agreement and a referral to the Resident Services Department.

**3rd Violation** – 30-day Termination Notice with NO option to remedy.





## LIPH DWELLING LEASE

**DETROIT HOUSING COMMISSION**  
**1301 E. Jefferson · Detroit, Michigan 48207 · (313) 877- 8000**  
**D W E L L I N G   L E A S E**  
**P A R T   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.**

**DETROIT HOUSING COMMISSION DWELLING LEASE  
PART I**

**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: \$\_\_\_\_\_ (TTP). The amount is determined by the following procedure:

Minimum Rent ☐ Flat Rent ☐ 30% of adjusted Income ☐

**1. Rent.** Monthly tenant rent (TR) 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 tenant 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 ☐

**DETROIT HOUSING COMMISSION DWELLING LEASE  
PART I**

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 One hundred (**\$100.00**) Dollars will be added to Resident's account for failure to pay the full amount due by the 15th 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 (TTP) (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.

**DETROIT HOUSING COMMISSION DWELLING LEASE  
PART I**

***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

**DETROIT HOUSING COMMISSION DWELLING LEASE  
PART I**

**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 DWELLING LEASE  
PART II**

**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.



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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

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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-

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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.

**14.** Any other circumstances deemed by HUD or DHC in which an Interim Recertification is required.

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

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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 which it 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**

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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

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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:

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- (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

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DHC. This prohibition against the possession of marijuana also includes the use, distribution or possession of medical marijuana. Resident understands that although the marijuana use 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 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 effected 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

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| <p style="text-align: center;"><b>DETROIT HOUSING COMMISSION DWELLING LEASE</b><br/><b>PART II</b></p> |
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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.



## DHC CRIME INITIATIVE



Date: Jan 4, 2024

To: Rabelani Makwarela Special Projects Manager

From: Ernest Collier – Associate Manager of Security and Property Eviction Subject:

**DHC Crime Initiatives – Accomplishments and Goals**

Regarding above subject, below are the accomplishments and goals relative to Detroit Housing Commission's (DHC) crime initiatives for 2024.

**Accomplishments**

- Green Light Project was implemented at Parkside, Sojourner Truth, and Sheridan I & II
- Worked with 36<sup>th</sup> 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)
- Worked with courts to reduce the timeframe from service of "One Strike" notices to eviction
- Built relationships with Detroit Police Department (DPD), Bureau of Alcohol, Tobacco, and Firearms (ATF) for Criminal activity
- Added towing contract to all the sites **Goals**
- Provide quality decent, safe, and sanitary housing to all of our residents
- Work with DHC Law and Management Departments to expedite the eviction for Lease Violation(s)
- Better Security Doors at all senior sites (Banker Doors)
- Install more effective security gates at all senior site entries
- Rid developments of gangs and other illegal activity
- Work with Detroit HUD Field Office to propose units to be offline for use for additional antidrug/anti-crime initiatives
- Upgrade current security camera systems at all the sites



- Bid out for new security services

Please reach out to me if you have any questions or concerns.

1301 E. Jefferson • Detroit, Michigan 48207 • 313.877.8000 • 800.222.3679 TTY/TDD



"Equal Housing Opportunity" 1





## RAB - Q&A FROM JANUARY 30, 2024

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### **RAB Members:**

- Christina Toney
- Angela Chase
- F. Kim Burnett
- Sabrina Brown
- Sennettra Allen
- Ralph Brantley
- Deborah Bills
- Maryann Peeples
- Jinnie Andrews

## **Questions from RAB meeting 01/30/2024**

### **Capital**

RAB Member Question: "I've a question in reference to what you were speaking about, the entry doors at Harriet Tubman, there is going to be an overall upgrade?"

Capital Director: "So I can tell you what we're going to do. We're going to go from the carport in the asphalt where it goes from concrete to asphalt, we are going to take up all of that concrete we are going to go through the entryway, replace both doors, replace the tile in the entryway and through into the lobby between the elevators. That entire section and the entire entry walkway."

RAB Member Question: "So the same doors?"

Capital Director: "Yes, the same doors."

RAB Member Question: "I'm a Harriet, I heard you say, you've completed the roof. But my question is did they do the makeup area that was vulnerable?"

Capital Director: "No, the makeup area unit was not a part of that replacement. A couple of years ago we did do one of the rooftops, but it was not the MAU, so the answer is, no. I'll look back through that. We just got updated PNA's again. That's a good call. We'll go back and look and see what the age is specifically on that, as far as functionality. That's a good call, thank you."

### **Rental Assistance**

RAB Member Question: "Can you provide contact information?"

RA Interim Director: "burrisf@dhcmi.org, 313 877-8660"

RAB Member Question: "Okay, so the program, the one that stays in place, the voucher stays. Did you say that? I know you can't take that with you like. Say, if you move, or something of that, nature is that the program that you have to stay in place for a year?"

RA Interim Director: "So project-based, this is a program that we offer. Our project-based waiting lists are open currently. The only program that we have that's currently closed is HCV, but you can definitely go to our website and look at our project-based waiting list. Any of those properties have open waiting lists. For project-based, if you move into a project-based unit, and if you stay a year, and if we have the allocation after a year, if you want to request an HCV Voucher, you can. Now, it does not automatically guarantee that you will get one, because there's an eligibility process, etc. But you can certainly request the HCV Voucher. Moderate Rehab is the only program we have that you cannot request the HCV Voucher. Once you move out of MOD rehab unit, you move without a voucher, and those waiting lists are open, too."

RAB Member Question: "What type of facility is a MOD unit?"

RA Interim Director: "That is the federal program name. We have two MOD properties, and these have open waiting lists. Again, the subsidy stays with the property and as long as you live there you get the subsidy, but once you move, you just move."

RAB Member Question: "Would that be like Xavier square? Is Xavier Square a MOD building?"

RA Interim Director: "No that is project-based, and again these wait lists are open, and if you stay in place a year, you can request a voucher."

### **Real Estate Management**

REM Director: "Introducing Mr. Edrick Mathews, the General Manager of Maintenance."

RAB Member Question: "Where does Mr. Mathews work?"

Mr. Edrick Mathews: "I work everywhere."

RAB Member Question: "Does the pre-occupancy training include the housekeeping video?"

REM Director: "That's part of it."

RAB Member Question: "Can you repeat that? That sounds really good for a lot of people."

REM Director: "Well, one of the reasons why we propose an extension of that time is because some people don't get their money on the first, and we want to work with families that want to work with us. So, I think by 15th, everybody that has it. Some they have to pay should have what they need to pay the rent."

RAB Member: "That's sufficient. That's making it convenient for everybody. I'm one of those people. If you get to the 15<sup>th</sup>, that should give you more than enough time to pay the rent."

REM Director: "We are proposing a \$300.00 pet deposit..... \$10.00 per month pet rent."

RAB Member: "Does that include cats?"

REM Director: "Yes."

REM Director: "Yes, the Earned Income Disallowance is removed. No new cases allowed effective January 1, 2024. Residents under current EID are not affected."

RAB Member: "So this would affect the 30% of rent? No, it'd would still be 30% of rent."

REM Director: "Yes just based at the higher income."

RAB Member: "So now I pay flat rent?"

REM Director: "You can. Residents have a choice; you can pay flat rent or income-based rent."

### **Real Estate Development**

RAB Member: "Can we call in the questions or email it?"

Manager, Real Estate Development: "Yes. The number is 313-877-8964. Also, at PC@DHCMI.org, which I prefer, because I can provide a thoughtful written answer."

### **Resident Services**

Resident Services Manager: "Out of the 243 participants that received screening, 43% required and received free eyeglasses."

RAB Member: "Where are the screenings?"

Resident Services Manager: "This year, we received additional funding for our support services this year. So we will be at community near you."

RAB: Member: "How did the men's event go?"

Resident Services Manager: "This was the second year and we've seen significant growth. It was great. This year we intend on doubling it."

RAB: Member: "Where is the housekeeping video available?"

Resident Services Director: "It will be on our website."

RAB Member: "All these programs are great. Why have I not heard of many of these?"

Resident Services Director: "So, previously, there were probably only 6 of us in the whole department. And so, when I became director, we just built up the program tremendously. Now we have a staff of like 12. We have more service coordination. Now you see them out in the out in the field. So, before we weren't out in the field. But now we're trying to make sure that there's a service coordinator for our 21 developments, right? Particularly at the big sites. So what we do now have is we do have some at the senior sites."



**PUBLIC HEARING COMMENTS**  
**FY24 ANNUAL PHA PLAN**

The meeting is scheduled for March 25, 2024 and comments will be entered here after the meeting takes place.